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## LEGAL EDUCATION IN THE UNITED STATES\*

THE origin of law schools is lost in antiquity. It is probable there were advocates in Babylonia,<sup>1</sup> and schools for the education of judges and scribes (perhaps the ancestral lawyers) in Egypt,<sup>2</sup> more than 2000 years B. C. The Civil Code<sup>3</sup> of Deuteronomy was published 621 B. C.,<sup>3</sup> and soon afterward schools of the prophets were formed for its study.<sup>4</sup> When Ezra left Babylon for Jerusalem (485 B. C.) he "set his heart \* \* \* to teach in Jerusalem statutes and judgments,"<sup>5</sup> and the ruins of his school could be seen by the law students at Husal, 500 years later.<sup>6</sup> It is probable that schools of jurisprudence and advocacy existed in Greece and Alexandria before the Christian Era.<sup>7</sup> Schools where the Twelve Tables were publicly taught existed in Rome in the 5th century B. C.<sup>8</sup> Gaius taught law in Troas in the 2d century A. D. Law schools existed as early in other places in the Empire.<sup>9</sup> In 425 A. D., Theodosius founded a law school at Constantinople copied after the one then existing at Rome.<sup>10</sup> A celebrated school existed at Beyrout in the time of Justinian (533 A. D.) who abolished all in the Empire except the three last mentioned.<sup>11</sup> It is probable that Alcuin and Charlemagne together studied law (as they did everything else) in the Palace school at Aix,—the forerunner of the Universities of Paris, Tours, and Soissons.<sup>12</sup> Before 1050 Lombard law was taught at Pavia. From here the lamp was handed to Bologna, where Irnerius began to teach Roman law about 1100 A. D.,<sup>13</sup> and where Lombard law had

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\**Bibliography*: Bibliographical material is indexed in Poole's Index to Periodical Literature; Jones' Index to Legal Periodicals, Vols. 1 and 2; Report of Committee on Legal Education A. B. A. 1895, p. 1; O. H. Park's Index to Bar Association Reports (State and National); Index to Publications of Bureau of Education 1867 to 1890, Commr. of Ed. Report 1888-9, p. 1453. Valuable Articles for history of the subject are in 8 Am. Jurist 247 (1832); 4 West. Jurist, 1, 125 (1870); 7 So. Law Rev. N. S. 400 (1881); 27 Am. L. Reg. N. S. 71, 341, 407. The Addresses of Dean Ames, Dean H. W. Rogers, and Dean Hufcut, in the Am. Bar Assn. Reports are especially valuable for historical views. The best general views covering the whole ground are in Report of Com. on Legal Education A. B. A. (1891); Butler's Education in United States (J. R. Parsons, 1900); 31 Am. B. A. Report, p. 513 (1907). On the subject of admission to the bar see 7 Penn. Mo. 960, 14 N. Y. City Bar Ass'n Report, (L. A. Delafield, 1876); 15 Am. L. Rev. 294, (F. L. Wellman, 1881). Rules for Admission to Bar in All the States, 4th Ed. 1907, West Pub. Co.

<sup>1</sup> Johns, Babylonian, etc., Laws, p. 88.

<sup>2</sup> Breasted, Hist. Egypt. 98; Rawlinson, Ancient Egypt, Vol. I p. 569.

<sup>3</sup> 2 Encyc. Biblia, Col. 1189.

<sup>4</sup> 1 Hastings Dic. Bible p. 647.

<sup>5</sup> Ezra, 7:10.

<sup>6</sup> 1 Jewish Encyc., 145.

<sup>7</sup> Howe, Ancient & Medieval Law Schools, 1 Am. L. S. Rev. 72.

<sup>8</sup> Rept. Am. Bar Assn. 1897, p. 212.

<sup>9</sup> Howe, 1 Am. L. S. Rev. p. 72.

<sup>10</sup> Ortolan, Hist. Roman Law, 411.

<sup>11</sup> Howe, 1 Am. L. S. Rev. p. 73.

<sup>12</sup> Alcuin, Encyc. Brit.

<sup>13</sup> 1 Pol. & Mait. Hist. 2nd Ed., 22, 23.

been taught before.<sup>14</sup> Bulgarius (c. 1150), Azo (1200), Accursius (1250), Bartolus (1350), Alciat and Cujas (1550) Heineccius (1725), Thibaut and Savigny (1825) were all distinguished professors of law in great continental universities.<sup>15</sup> Vacarius taught Roman law at Oxford in 1149, and was not silenced by Stephen. Thomas of Evesham continued the work. Though Henry III (1234) forbade the teaching of the *leges* in the London Schools, Oxford and Cambridge continued to give degrees in the Civil and Canon law.<sup>16</sup> The English law was not taught in the Universities, and it is possible Henry's order was designed to foster the "new university," where lectures were read and the degrees of *barrister*, and *serjeant* conferred, in the Inns of Court, established by the lawyers between London and Westminster, after the Great Charter said "common pleas should no longer follow the King's court."<sup>17</sup> In Fortescue's time (c. 1450) there were many students,<sup>18</sup> "studying original writs, and dancing, and diversions of other kinds;" according to Coke "the readings therein were most excellent and behoofful for attaining a knowledge of the law," and Ben Jonson called them the noblest nurseries of liberty in the kingdom. It was not however till 1753 that Blackstone began to lecture on the Common Law, at Oxford, where he became Vinerian professor in 1758. The Downing professorship of English law was not established till 1800. These are justified of their works for they have given us Blackstone's Commentaries and Pollock and Maitland's History.

In 1682, the first general assembly of Pennsylvania required "the laws to be taught in the schools of the province."<sup>19</sup> In 1773, John Vardill filled the first professorship of law in the United States, in Kings' (now Columbia) College. It continued till closed by the Revolution; it was reopened by James Kent in 1793; closed in 1798-1823, through Kent's long judicial career, to be taken up again by him with more or less regularity till his death in 1847; the school was reopened in 1858 by Professor Dwight, and has continued since.<sup>20</sup> In 1779, Thomas Jefferson, as a visitor of William and Mary College abolished a professorship of divinity, and established a professorship of law instead, where Jefferson's preceptor, George Wythe, began to lecture in 1782, and where John Marshall studied during intervals in his campaign as a soldier in the Revolution.<sup>21</sup> In

<sup>14</sup> Hammond, Blackstone p. 43.

<sup>15</sup> Dates are only approximate.

<sup>16</sup> Pol. & M. 2nd Ed. 119, et seq.

<sup>17</sup> 1 Bl. Com. p. 23.

<sup>18</sup> More than 1500; De Legibus, 187 et seq.

<sup>19</sup> Gordon's Hist. Pa. p. 7.

<sup>20</sup> Columbia L. S. Ann. 1906-7 p. 4.

<sup>21</sup> Circular No. 1, 1887, Bureau of Ed. pp. 37, 39.

1782 Judge Reeve opened the famous Litchfield School, which continued for 50 years,—and its 1,000 graduates furnished 50 congressmen, 40 Judges of higher courts, 15 U. S. Senators, 10 governors, 5 cabinet officers, 2 U. S. Supreme Court justices, 1 vice-president, and many foreign ministers.<sup>22</sup> In 1790, James Wilson, Associate Justice of the United States Supreme Court, delivered his first course of lectures in law in the College of Philadelphia, now the University of Pennsylvania; they were continued only one year more; in 1817 law lectures were again delivered here by Mr. Hare for a single year. In 1850 Judge Sharswood was appointed to the place, and the law school has continued since.<sup>23</sup> In 1814, David Hoffman was chosen to a law professorship in the University of Maryland, but his work did not begin till 1822; he continued for ten years; the work was then suspended until the reorganization in 1869.<sup>24</sup> In 1815, by the will of Isaac Royall, provision was made for giving fifteen lectures on law to the seniors in Harvard College; in 1817, another professor was added “to open and keep a school for the study of law in Cambridge.” This was done with three students in two small rooms. In 1829 Nathan Dane gave \$10,000 to establish the Dane professorship to which Justice Story was elected, and Harvard Law School with its continuous line of distinguished authors and teachers, was placed on a permanent basis. In 1821 a Law Academy with DuPonceau at its head opened in Philadelphia, and one seems to have existed at Transylvania University, Lexington, Ky., in 1824.<sup>25</sup> In the latter part of the 18th century and early part of the 19th, successful private law schools existed in New Haven, attended largely by Yale students; in 1824 the names of such were published in the Yale catalogue, and in 1826 provision was made for instruction in law by the appointment of Judge Dagget to a professorship therein; the school has been in continuous operation since, though the college did not confer law degrees till 1843. In 1825 a law school was established in the University of Virginia, and has been in operation ever since. In 1833, just as the Litchfield School closed, Judge Timothy Walker, one of its graduates, transferred its methods to the West by opening the Cincinnati Law School, now the law department of the University of Cincinnati. In 1835 Judge Isaac Blackford was made professor of law in Indiana University, but the work did not begin till 1842. In 1877 it suspended, to be reorganized in 1889.

<sup>22</sup> 1 Am. L. S. Rev. p. 13, 19; Butler: Education in U. S. Vol. II. p. 31.

<sup>23</sup> Franklin and Univ. of Pa. Bureau of Ed. 1892, p. 283.

<sup>24</sup> History of Ed. in Maryland p. 136.

<sup>25</sup> 4 West Jur., pp. 6, 7.

Law schools were established at Dickinson College, Pa., in 1834; New York University, 1835; Louisville, Ky., 1846; University of North Carolina, 1846; Tulane, La., 1847; Albany, N. Y., 1851; University of Mississippi, 1854; and in 1859, at the University of Michigan, Northwestern University and University of Georgia. Prior to 1860 various other law schools were organized that continued to give instruction for a longer or shorter period. The number of law schools formed between 1765 and 1800, is stated to have been 3; from 1801 to 1825, 3 more; 1826 to 1850, 7 more; 1851 to 1875, 24, and 1876 to 1900, 50 more.<sup>26</sup> In 1879, the Committee on Legal Education of the American Bar Association recommended that the state bar associations "be requested to further in their respective states the maintenance of schools of law."<sup>27</sup> This was approved by the Bar Association the next year.<sup>28</sup> There were then 48 schools in 24 states with 3134 students. Twelve years later, in 1892 when there were 58 schools with 6073 students, a committee of the same association felt called upon "to deprecate the needless multiplication of law schools."<sup>29</sup> The schools have more than doubled since these recommendations were made and the attendance has increased five fold. Table I with diagram indicates the growth of law schools<sup>30</sup> as compared with the population, for the United States, and the various sections of the country.<sup>31</sup> According to table V, there are 148 Law Schools,<sup>32</sup>—20 in the North Atlantic States; 28 in South Atlantic; 23 in South Central; 61 in North Central, and 16 in the Western States,—13 giving instruction by correspondence, and 5 being connected with Young Men's Christian Associations. It is possible that some of these are suspended temporarily or permanently. According to the Committee on Legal Education, last year there were 131 schools including 12 correspondence schools; 30 were exclusively night schools, and 10 day-night schools.<sup>33</sup>

In 1898, 19 law schools reported the value of their property and grounds at \$1,431,000; in 1907, 31 schools reported the value at \$2,888,500. In 1898, 8 law schools reported endowments to the value of \$752,500; in 1907, 16 schools reported \$1,732,607. Law

<sup>26</sup> Butler, *Education in the U. S.*, Vol. 2, p. 2.

<sup>27</sup> 2 A. B. A. R. 235.

<sup>28</sup> 3 A. B. A. R. 44.

<sup>29</sup> 15 A. B. A. R. (1892) p. 9, 20.

<sup>30</sup> The statistics are admittedly incomplete, but are the best available. Those prior to 1870 are from the *American Almanac*. In 1842 there were ten Schools, 19 teachers and 384 students. In 1847, 15 schools, 377 students. In 1860, 20 schools, by U. S. Census. In 1868, 22 schools, 1344 students. See 4 *West Jur.* pp. 9, 127, 128.

<sup>31</sup> The political divisions are those used in the U. S. Census, and by the Commissioner of Education. They include the states indicated in Table VII.

<sup>32</sup> The list is made up from lists kindly furnished me by The Bobbs-Merrill Co., Callaghan & Co., and the West Pub. Co.

<sup>33</sup> 31 A. B. A. R. 593.

school libraries have grown rapidly in 10 years. Thirty-three schools now have over 5,000 volumes each. In 1898, Yale had 12,000 volumes; now, 30,000; University of Pennsylvania, 1898, 19,000; now, 40,000; Columbia, 1898, 25,000; now, 32,000; Cornell, 1898, 26,000; now, 37,500; Harvard, 1898, 44,000; now, 90,000. In 1899, 70 schools were university departments; now 93 are.

In the United States before 1875, law school announcements usually stated: "No examination nor any particular course of previous study is necessary for admission."<sup>34</sup> It was true that any man could walk directly from the streets into the law schools, or into the profession,<sup>35</sup> and the poorest boy could become an attorney with less expenditure of time and money than it would cost to learn a good trade.<sup>36</sup> The schools were dependent upon fees; the states generally required no literary training for admission to the bar; the study of the law itself was considered a liberal training, and a life study, and for many years there was a widely prevalent opinion that educational requirements for admission to the bar tended to build up an aristocratic and privileged class of lawyers, and interfered with the personal liberty of the citizen to pursue whatever calling he might choose. It became almost a maxim of the bar and the schools: Let all who apply enter, give all the degree who pay their fees, and all will find their level at last. There, of course, were frequent and vigorous protests.

When Judge Story became Dane professor of law at Harvard, he made an effort to secure proper preparation for the study of the law. In the announcement for 1829 it was stated that "Gentlemen who are graduates of college will complete their education in *three* years. Those who are not, in *five* years." At Yale, in 1849 the LL.B. degree was given for 18 months' work, to those liberally educated before entrance upon their legal studies, but two years work was required of others. These provisions, however, did not endure. After a trial of five years at Harvard the policy of 1829 was abandoned, and the announcement of 1834 offered the degree to "students who have completed the regular term of professional study required by the laws in the state to which they belong, eighteen months thereof having been passed in the law school." From this there was a gradual decline, until the degree was given to all who had attended eighteen months. Further efforts along this line do not seem to have been made until 1874, when Columbia announced

<sup>34</sup> This was provision in Harvard Announcement 1840-1875. Also at Columbia 1858-1875.

<sup>35</sup> Pres. Jordan, quoting Pres. Eliot, Rept. Comm'r Ed. 1894-5, p. 1252.

<sup>36</sup> 4 West Jur. 130.

that in 1876 the applicant for admission to the law school must have received a good academic education, including Latin,—4 books of Caesar, 6 books of Virgil, and 6 orations of Cicero,—necessary for admission to the freshman class in college, with Grecian, Roman, English and American history, and grammar and composition.<sup>37</sup> It took 15 years for the state, through its regents, to come up to this position. Yale announced a rule in 1875, to go into effect in 1876, which required written examinations in spelling, grammar, composition, English and United States history.<sup>38</sup> In 1876 Harvard announced that in 1877 examinations for admission would be held in Caesar, Cicero, Virgil, and Blackstone Commentaries. At Yale and Harvard these rules remained in operation, without substantial modification for twenty years. The Columbia rule, equivalent to a four year high school course, continued to 1884, when the New York Regent's law students' certificate,<sup>39</sup>—considerably lower than the demand of the original rule,—was allowed as a substitute. In 1891 introductory Latin, geometry and civics were added. In 1893, however, the Regents required their academic diploma of 48 counts, or its equivalent to be obtained before admission for a professional degree in the colleges of New York. This brought Columbia back to its position of 1876, and put all the other New York schools on the same basis.

The beginnings of advance in this direction were being made in other places, of which, perhaps, the steps at the University of Michigan are typical. From 1859 to 1877 the sole requisites for admission were 18 years of age and evidence of good moral character. In 1877 it was expected that the applicant would "be capable of making use of the English language with accuracy and propriety," and by 1880 he was expected "habitually to do so." In 1881 he must show, by examination, such attainments "as will justify his entering upon the practice of the law." In 1883 this was to include arithmetic, geography, English grammar, composition, English and United States history,—the examination not to be technical,—as announced in 1884. In 1890 parts of books, I, II and IV, of Blackstone were added, but were not to be required of high school, academy or college graduates. They remained thus till 1897,<sup>40</sup> since which time they have been raised to the equivalent of a 4 years' high school. The examinations were mainly oral for many years "and more honored

<sup>37</sup> Report of Pres. Eliot 1875-6 p. 28.

<sup>38</sup> These items are taken from the respective announcements for the years indicated.

<sup>39</sup> This included Arithmetic, English Grammar, Geography, Orthography, American and English history, and English composition.

<sup>40</sup> From Announcements.

in the breach than the observance,"<sup>41</sup> but since 1895 have been written and exacting.

The next step forward was taken by the Ohio State University at the organization of its law department in 1891.<sup>42</sup> Notwithstanding the strong competition of the old and honorable Cincinnati law school and the University of Michigan, with their easy rules as to admission, this institution made the requirement, for admission for the degree, of "two years' work in some one of the four year courses at the University." At that time the standard for admission to some of the scientific courses were not so high as to the Arts course, but in a few years the rule was so changed as to demand the equivalent of the first two years in the Arts course.

The next year, 1892, Harvard announced that in 1896 a respectable degree in Arts, or qualification to enter the senior class in Harvard University, would be required for admission to the law school. Three-fourths of its students were already college graduates.

The foregoing indicates the steps taken by the Schools themselves urged, perhaps partly, by occasional pungent criticisms at various times by progressive members of the bar who believed the law should be made and kept a learned profession. The bar, however, as a whole seemed indifferent. From the organization of the American Bar Association in 1878 the subject received no attention<sup>43</sup> until in 1891 its Committee on Legal Education urged that law schools should be "open to all who had a good English Education," or such as not to delay or embarrass their fellow students.<sup>44</sup> Admission rules were then at Harvard and Yale as they were in 1876-7; the New York Schools applied the Regents' rules of 1884 noted above. Michigan, Wisconsin, Iowa, Kansas, and St. Louis law schools gave perfunctory examinations in common school branches with a little English and American history, while Illinois, Minnesota, Missouri, and Texas law schools had no admission examinations, and in 1889 only 22 out of 52 schools reported any admission examinations.<sup>45</sup> And in 1894, in 43 out of 60 catalogues examined, there were practically no requirements for admission to the law classes.<sup>46</sup> In 1896 the Section on Legal Education recommended a "high school course,"<sup>47</sup> and the Bar Association the next year said it should "at

<sup>41</sup> Univ. News Letter, Dec. 1906.

<sup>42</sup> Dean H. W. Rogers gives credit to the Univ. of North Carolina, for first taking this step,—31 A. B. A. R. 581. I have been unable to verify his statement, and a letter from Dean MacRae states the rule has existed in the Univ. of N. C. since 1897.

<sup>43</sup> Ames. 1 Am. L. S. R. p. 266, 21 A. B. A. R. 510.

<sup>44</sup> 14 A. B. A. R. 331.

<sup>45</sup> Com. of Ed. 1888-9 p. 1179.

<sup>46</sup> Com. of Ed. 1894-5, p. 1247.

<sup>47</sup> 19 A. B. A. R. 450-61.



least" be that.<sup>48</sup> In 1896 the Harvard rule requiring college degree went into effect, and then only 7 out of 74 schools required as much as a high school course for admission. In 1900, the Association of American Law Schools restricted membership to schools requiring a high school course<sup>49</sup> for admission, and since 1907 this must be a full four year course.<sup>50</sup> In 1903, the Committee on Legal Education of the Bar Association urged schools so far as practicable to require two years in college,<sup>51</sup> and last year the Committee was of the opinion that the interests of the profession and the state would be promoted if "at least" that much was required.<sup>52</sup>

In 1902, 43 schools out of 98 required only a fair English education; 4 less than a high school education; 44, a high school education (or its equivalent); 3, two years in college; and 4 four years in college. Illinois, Minnesota, Texas and Washington State Universities have taken action, to go into effect in 1908 or 1910, which will require the equivalent of one year in college for their law degree. The faculty of the University of Michigan has also unanimously recommended such action. It is now before the Board of Regents for consideration. Ohio State, (1891), Trinity College, N.C., (1904), University of North Carolina, (1897), University of West Virginia, (1899), and University of Wisconsin (1907), each require two years of college work, and in 1908 or 1909 Yale, Boston and George Washington Universities will require the same. Harvard, (1896), Stanford, Chicago, Catholic University, Columbia, Boston, New York, Brooklyn and California now require four years' college work for admission to their law courses for their degrees, or grant different degrees to those who are college graduates. Later details, given in table V, show that 19 schools require or will soon require some college work (4, 1 yr., 8, 2 yrs., 2, 3 yrs., and 5, 4 yrs); 65 others report some high school work required (1, 1 yr.; 5, 3 yrs., 44, 4 yrs., and 15 indefinite as to the amount). This is a great advance in the past six years.

In 46 schools reporting on the subject, 41 admitted special students; in 26 no provision was made for their graduation; in 9 they were allowed to "make up" preliminary requirements during their law course; 3 made provision for graduating such special students as showed exceptional proficiency in their law work. In such schools as make a difference in the certificates or degrees given to college

<sup>48</sup> 20 A. B. A. R. 351.

<sup>49</sup> Ames, 1 Am. L. S. R. 266; 21 A. B. A. R. 511.

<sup>50</sup> 28 A. B. A. R. 673-5.

<sup>51</sup> A. B. A. R. 1903, 407-23.

<sup>52</sup> 31 A. B. A. R. 589.

men and non-college men, no effort is made to separate the students in their classes,—all do the same work.

The effect of increased requirements upon attendance is shown to some extent in diagram III. At Michigan, during the whole period of installing admission requirements, there was no loss of students, except slightly during the first five years,—1881 to 1886, and this loss was soon repaired. Raising the standard to the college degree point at Harvard in 1896 did not check its growth. Establishing entrance requirements at Yale in 1876 did not materially check the growth. The higher requirements at Columbia and Harvard in 1876 and 1877 had a somewhat more pronounced effect. The policy adopted at Columbia in 1891, displacing the Dwight system, and substituting the Case system, had such effect as few institutions could stand, and is not yet entirely overcome. The additional requirements at Columbia in 1903 have also had a material effect in lessening the number of students and the reaction has not yet commenced. The increased requirements at Wisconsin of one year college in 1905-6 reduced attendance about 20 per cent; the next year this was overcome, and there was a large increase in the *entering* class. In 1907-8, with the *two* year rule in operation, the attendance is only four less than the preceding year. And the temporary loss is much more than over-balanced by the quality of the students secured.<sup>53</sup> During the first ten years of its existence, the Ohio State University Law School grew very much more rapidly than its three competitors without admission requirements, and it has held its own along with them ever since. The law school at Stanford, with its high requirements from the beginning, has grown much faster than the Hastings College of Law with its low requirements. Chicago University Law School, competing with seven low requirement schools in the city, has grown rapidly in numbers and standing of students.

The early professorships of law established in the Universities in this country were modeled after Blackstone's course in Oxford, and consisted of a certain number of lectures delivered each year to the senior college students. The Litchfield school, however, was distinctly a *law school* from the beginning. Here five lectures of one and one half hours each were given each week, until 48 titles, into which Judge Gould divided the law, and systematically digesting "every ancient and modern opinion," were covered. These lectures were "taken down in full by the students," and transcribed "in a more neat and legible hand," the remainder of the day being devoted to examining authorities and reading approved authors. The notes

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<sup>53</sup> Letter of Dean Richards, and Wisconsin Alumni Mag. Vol. 9, p. 212.

when completely written out comprised "five large volumes which constitute books of reference." Examinations were held "every Saturday upon the lectures of the preceding week" by a distinguished practitioner. Moot Courts, presided over by Judge Gould, "for the argument of law questions are held once each week,"—the arguments and opinions being recorded in a book for that purpose. "The whole course is completed in fourteen months, including two vacations of four weeks each." Tuition \$100 for first year and \$60 for second.<sup>54</sup> This course probably was among the very best in the country at the time and was the model of others.

At Harvard, Yale and Columbia the plan was similar, and continued so for many years. In 1864-5 at Harvard there were two courses of lectures covering substantially the same topics, given in different order and only in alternate years. "Instruction is given by oral lectures and expositions (and by recitations and examinations, in connection with them) of which there are ten every week." The standard text books of the day were completed in the regular two years' course of two terms of four months each per year; tuition \$50 per term; other expenses per term \$148 to \$286,—making \$800 to \$1,350 for the two years.<sup>55</sup>

In the Law Department of the University of Michigan, which opened in 1859, the course was two years of six months each. All instruction was by lectures of which there were ten each week to the whole department,—the classes for the odd and even years taking the same subjects in the reverse order. "The sole requisites of admission" were 18 years of age, and certificate of good moral character. Fees,—matriculation \$10.00, annual, \$5.00.<sup>56</sup> This course and method of instruction continued substantially the same until 1890 or later.

In 1868, the length of time of study required to secure the LL. B. degree, was as follows: At University of Pennsylvania, 16 months; Columbia 14; Michigan, 12; Harvard, 10; University of Iowa, 9½; Albany, and University of New York, each 9; and Cincinnati 6 months.<sup>57</sup>

In 1872, the Law Department of Wilberforce University Xenia, O., for colored students, is said to have had a four year course; it had, however, only five students,—in 2d and 3d years and none in 1st and 4th years. It is probable that the legal instruction here made up part of a four year collegiate course. In 1835, Benj. F.

<sup>54</sup> 1 Am. L. S. Rev. p. 19. Reprint of Advertisement of School, 1828.

<sup>55</sup> The foregoing is from the Catalogue of Harvard Univ. for 1864-65, pp. 60-68.

<sup>56</sup> From Catalogue for 1860 pp. 60-69.

<sup>57</sup> 4 West Jurist, p. 137.

Butler planned a law school to be organized in Boston, with a three years' course of study, but it was 37 years before such a school was put in operation.<sup>58</sup> Boston University Law School, organized in 1872 was the first to establish a regular three year course. In 1876, Columbian University, Washington D. C., and University of Notre Dame, Notre Dame, Ind., commenced three year courses; in 1877, Harvard, Georgetown and Howard Universities, Washington, D. C., Hastings College of Law, San Francisco, Cal., and Shaw University, Holly Springs, Miss., did the same; in 1878 National University, Washington, D. C., followed, and Trinity College, N. C., in 1879. In 1880, Columbian and Georgetown went back to two years, with one year post graduate. In 1883 University of Maryland started a three year course, while Howard and National went back to two years, with one year post graduate.

In 1879 the Committee on Legal Education of the American Bar Association recommended the furtherance, by State Associations, of the establishment of law schools in the various states, with *three year* courses, and at least four efficient teachers, whose diploma, after full written examinations, shall "be essential as a qualification for practicing law."<sup>59</sup> In 1881 the Association unanimously urged the establishment of such schools with three year courses "as soon as practicable," but not that written examinations be essential for admission to the bar."<sup>60</sup> The Committee also recommended a course of study which should include in addition to the usual legal subjects, Moral and Political Philosophy, and Political Economy.<sup>61</sup>

Although some of the schools led the bar in this forward step, other schools were slow to follow. In 1875 only one out of 43 schools had a three year course; in 1885, only 5 out of 49; in 1890 only 12 out of 60; and in 1895, 17 out of 72. In 1893 however, the Section on Legal Education of the American Bar Association was organized. In 1895 it recommended that the Association itself approve "the lengthening of the course of instruction in law schools to a period of three years,"<sup>62</sup> which it did in 1897.<sup>63</sup> In 1898-9, out of 96 schools 1 had a four year course, 43 a three year course, 2 had a two or three year course, 41 a two year course, and four a one year course, with four not reported. In 1906, 4 of the 98 schools reporting to the Commissioner of Education were four year schools; 61 three year; 1 two or three year; 31 two year; and 3 one year

<sup>58</sup> Methods of Legal Ed. in N. Y., C. D. Ashley, 1899, p. 6.

<sup>59</sup> 2 Rept. Am. B. A. p. 235-6. For discussion, see 3 Rept. pp. 13-24, 29-45.

<sup>60</sup> 4 Rept. Am. B. A. p. 30.

<sup>61</sup> 2 Rept. Am. B. A. p. 236.

<sup>62</sup> 18 A. B. A. R. 406-8.

<sup>63</sup> 20 A. B. A. R. 31-3.

schools.<sup>64</sup> Of the 119 schools reporting to the Committee on Legal Education last year, 3 (all night schools) have a four year course, 74 a three year course, 36 a two year course, 2 a one year course, and four unreported.<sup>65</sup> There were 30 night schools and 10 schools with day and night courses. The best of these required 4 years' work, amounting usually to over 1,000 hours of class work, and this is in accord with the recommendation of the Committee on Legal Education, last year.<sup>65a</sup> While there is no intrinsic reason why legal instruction should not be given in the evening,—for no laboratory but the library, no apparatus but the printed page and the living voice of a teacher (often better than can be had in a day school) are needed, yet human energy and strength are limited so that after a day's work at other things neither the teacher nor pupil can do the same amount of legal work so well as if his time and effort were wholly devoted to the law. It violates Professor Wigmore's "principle of orthodox legal education."<sup>65b</sup>

Table II, with diagram, shows the details in this direction. The great change from two to three year schools came between 1895-1900. It is not, however, simply a change in years that indicates the change in the amount of work,—for 2 years with 15 hours of class work for 36 weeks give the same amount of instruction as 3 years of 10 hours per week. The length of the course of study in weeks for 1875, 1885, 1895, and 1907-8, and in hours for the latter year is indicated by Table V,—and in hours given to the leading subjects (in the 49 schools reporting), in Table VI. Of the 89 schools reporting hours of instruction, 8 of the 61 three-year schools report less than 1,000 hours, while 15 are between 1,000 and 1,200 hours, or about a 10-hour per week course. Harvard is in this class. The other 38 give more. Ten two-year schools report over 1,000 hours in their course, while 18 give less. The longest three-year course seems to be Notre Dame (1,824 hours of closely guided individual instruction), and the shortest, Washington College of Law (360 hours). The longest two-year course is at University of Washington (1,404 hours), and the shortest at Louisville (336 hours). The time given to leading subjects varies greatly,—Criminal Law, 12 hours (Milwaukee University), to 118 hours (University of Texas); Contracts, 36 hours (John Marshall), to 160 (Illinois Wesleyan); Torts, 18 hours (Milwaukee University), to 108 (5 schools); Real Property, 30 hours (Indianapolis

<sup>64</sup> Commr. of Ed. 1906, p. 623.

<sup>65</sup> 31 Rept. Am. B. A. p. 493.

<sup>65a</sup> 31 A. B. A. R. pp. 550, 590 (11th resolution).

<sup>65b</sup> A. B. A. R. 1894, p. 105.

College of Law), to 234 (2 schools); Equity, 28 hours (Illinois Wesleyan), to 198 (Columbia); Private Corporations, 20 hours (Indiana Law School), to 108 (University of Cincinnati and Ohio State); Evidence, 30 hours (3 schools), to 108 (Stanford); Constitutional Law, 20 hours (Indianapolis College of Law), to 144 (Columbia). It is probable many (not reported) give even less time to leading subjects than the minimum here stated. The strong schools generally give 100 hours or over to Contracts, 72 or over to Torts, 100 or over to Real Property, 90 or over to Equity, 72 or over to Corporations, 72 or over to Evidence, and 36 to Constitutional Law,—many giving more, some even three times as much.

Thirty-three schools give postgraduate work, but only 23 schools had any students—270 in all. Last year, according to the Committee on Legal Education, there were 29 schools with 296 students.<sup>66</sup> The larger numbers of these are in schools having a two years' or a comparatively weak three years' undergraduate course. A few years ago the writer made an investigation of this topic, with the following result: Yale, Columbia, Ohio State, New York University, University of Michigan, and Boston, had offered the LL.M. degree from 1898 to 1904, and Harvard and Northwestern the Master's degree in Arts for an extra year of legal study. During this period there had been 415 postgraduates in a total attendance of 22,667; or, omitting New York University, whose undergraduate and postgraduate courses together were scarcely more than a good three-year course,—only 200 out of 18,973 students,—just over one per cent,—sought postgraduate work. At Michigan we have had 30 such students in the past 10 years, in over 8,000 students. This degree is not generally provided for, is not in demand, has no standing with practitioners, is not usually attractive to the best students, takes an undue amount of the instructors' time for the benefits conferred, or is little more than attendance upon numerous lectures in nearly every conceivable social science, given usually by other than law faculties.<sup>67</sup>

A few years ago it was pointed out that 38 per cent of the reversed cases were "reversed upon questions of procedure \* \* \* because of the incapacity of the attorney to properly present the

<sup>66</sup> 31 A. B. A. R. 537.

<sup>67</sup> Two of the most elaborate are at Yale, and Benton College. At Yale selections are made from 5 groups: Organization and working of human society: General jurisprudence and ancient law; comparative jurisprudence and government; American and English Constitutional law and history; American jurisprudence and legislation,—in which 46 different 1 or 2 hour courses of lectures are given. At Benton, lectures are given in History—from Babylon to now; Philosophy,—comparative psychology to man and God; Sociology; Economics; Political Science—10 lectures; History of law—10 lectures; Jurisprudence—10 lectures.

merits of his cause for judicial determination."<sup>68</sup> The accuracy of this has been questioned,<sup>69</sup> but in any event the schools have been much criticized for thrusting their "graduates upon the bar with no adequate conception of practice and methods of procedure."<sup>69a</sup> It has been contended that practice and procedure cannot be successfully taught, or cannot be without taking an undue proportion of time, or it is unnecessary, or not the function of the law school to undertake it.<sup>70</sup> On the other hand Mr. JUSTICE EMERY, of the Supreme Court of Maine, says: "We have in my state a little law school that does teach practice; some of its students are better practitioners than those men who come to the bar directly from the office. \* \* \* Practice is taught, and pleading is taught; not only can it be done but it is done, and done thoroughly."<sup>71</sup> The verdict of the best informed here certainly is that it can be done; done as efficiently as other work, and without taking an undue proportion of time, and that it is so done in many schools, not altogether of a local character. The following make special efforts in this line: University of Maine, Boston University, Dickinson, West Virginia, North Carolina, Louisiana State, Chicago Law School, Chicago-Kent, Northwestern, University of Michigan, Detroit College of Law, Drake University, St. Louis Law School, Universities of Nebraska, Kansas, Colorado, and Denver, the latter of which has a Legal Aid Dispensary Department in Denver.

In 1895, the Committee on Legal Education of the Bar Association urged that provision be made in the schools for instruction in Legal Ethics, Civil Law, and Federal Jurisprudence. Many of the schools have made provision for the last two, but in only a few schools is instruction regularly given in Legal Ethics.

Northwestern and South Dakota have very commendable required courses of reading in legal history and biography.

The lecture system has persisted through generations; there were "readers" in Elizabeth's time, and are yet. Most of our great legal treatises have come from the lecturers' hands. At its best it brought a great lawyer, fresh from the forum, flushed with victory or stirred by defeat, before the student body where he clearly, vividly and forcibly stated legal principles, and showed how they were daily applied to the work of the world; the student learned to follow a discussion, take notes of it, and analyze it, as it was being made,—

<sup>68</sup> Frank C. Smith, 17 A. B. A. R. 367, Commr. of Ed. 1894-5 p. 1253.

<sup>69</sup> Dean J. P. Hall, 28 A. B. A. R. 603.

<sup>69a</sup> L. H. Alexander, 28 A. B. A. R. 624.

<sup>70</sup> See H. S. Redfield, A Defect in Legal Education, 25 A. B. A. R. 545, with the discussion thereon; 28 A. B. A. R. 606, 625.

<sup>71</sup> Ann. College of Law U. of Me. 1906-7, p. 11.

certainly a valuable exercise. At its worst, however, "it fails to arouse the student; he listens, looks at the clock, and falls asleep betimes."<sup>72</sup> It is obsolescent, however; it prevails in only 10 out of 130 schools reporting, and is exclusive in only one or two.

When Judge CARUTHERS in 1847 resigned from the bench to accept the professorship of law in Cumberland University, "he assailed and utterly discarded the old system of teaching by lectures, and insisted that law should be taught like any other science, as chemistry,"<sup>73</sup> i. e., by text-books as all the sciences were then taught. This method made rapid progress. It was in use at an early date in Yale, where Professor Dwight studied. It became so popular at Columbia, under Professor Dwight's long service (1858-1891) as to be called the "Dwight Method,"—and consisted of recitation, exposition, and reading illustrative cases.<sup>74</sup> At its best the student goes over the work three times,—by study, by discussion and by quiz; the text itself is the best expression of the rules of law in accurate form, with their proper qualifications and in a systematic order by a great author, who as an expert by study, thought, training and experience is much better able than the student to deduce and state the principles from the cases; the student by studying *illustrative* cases with the text learns how the experts—the judges and authors—work, how they apply principles to facts, and how they make and mold into a rational system "that codeless myriad of precedent" which makes up our law; these, with the great teacher to guide, inspire and illustrate, furnish the most convenient, most thorough, most complete, and most systematic method of mastering the law. Such are the claims of its advocates,—and they attest its efficiency by the fact that when Professor Dwight closed his work 30 per cent of the New York City bar, and 45 per cent of the city bar association, had been his pupils.<sup>75</sup> At its worst,—with a poor text, and a poor teacher, it is dull and stupid work; and there is always the danger that the student will memorize a formula instead of master a principle,—get the shell without the kernel,—and then "he who knoweth the law and knoweth not the reason thereof, soon forgetteth his superfluous learning." However, this method yet holds the field,—65, just half,—of 130 schools state the text-book system as the prevailing one, and 20 others report a combined method,—which generally means that texts prevail.

<sup>72</sup> J. B. Scott, 2 Am. L. S. Rev. p. 4.

<sup>73</sup> Ann. Cumb. Univ. Law School, 1907, p. 1. Judge Caruther's Address was published in 3 U. S. L. Mag. 533.

<sup>74</sup> Argument of Prof. Chase, sent with N. Y. Law School Ann. 1907.

<sup>75</sup> The Counsellor, 1893. Circular of Mr. Chase, 1907. For a vigorous, but kindly criticism of the Dwight method by one of its pupils, see 7 Harv. L. R., p. 203 (T. F. Taylor.)



When Professor Langdell introduced the case system in Harvard in 1870, it was a striking, and by many considered a foolish, innovation.<sup>76</sup> Lord Bacon long ago said if a man is not apt "to call up one thing to prove and illustrate another, let him study the lawyer's cases."<sup>77</sup> And Lord Coke had said about the study of a case rightly adjudged: "It doth open the window of the laws, to let in that glad-some light whereby the right reason of the rule (the beauty of the law) may be clearly discerned."<sup>78</sup> Professor Langdell's premises were: Law is a science; the way to study a science is to go to the original sources; a student is never to take a principle from a second-hand treatise but go to the original memoir; this is the report of the case.<sup>79</sup> At its best "it is the inductive method of science applied to the law;" it fascinates by its reality; it studies law in its application,—feasible, for though cases are numerous principles are few; it deals with actual events; raises an issue; settles a problem of rights; excites and holds the attention; adds the charm of discovery to the interest of a drama; the student acquires the power of legal reasoning and the habit of legal thought; he learns to discriminate, and to judge; to analyze and to weigh; to separate the material from the immaterial facts; to state clearly and concisely the legally important elements of a complicated situation; to formulate and express accurately a rule of law; he begins to do what the lawyer through his whole life must do.<sup>80</sup> If so conducted it is not food for babes, but meat for men; and Sir Frederick Pollock says this "is the best way if not the only way to learn law."<sup>81</sup> On the other hand it takes much time, or only partial views can be obtained; the student gets a "wilderness of single instance" views, instead of one coherent, systematic view; and at its worst it degenerates either into a poor lecture system, in which the instructor is forced to do a large amount of *ex tempore* explaining, or, after a partial and halting statement of the facts of the cases,—of which 75 pages per day have been assigned,—hastily read, imperfectly remembered, and wholly undigested, by one student, a useless discussion by others having the same hazy idea of the facts follows; or the whole thing becomes a matter of intellectual gymnastics, in which all become tangled up in their own ingenuity,—courts are censured, the law

<sup>76</sup> See A. B. A. R. 1893 (W. A. Keener), p. 125; 20 Am. L. R. 919 (O. W. Holmes); 22 Am. L. R. 756 (J. C. Gray); 23 Ib. 1, (Jas Schouler); 25 Ib. 234 (W. L. Penfield); 3 Yale L. J. 17 (E. McClain); Am. B. Assn. Rep. 1893, p. 445. 18 L. Q. Rev. 78. 192 (W. Jethro Brown, 1902); 1 Am. L. S. Rev. 119 (S. E. Baldwin, W. P. Rogers, 1903); 27 Am. L. Reg. N. S. 416.

<sup>77</sup> Essay on Studies.

<sup>78</sup> Preface, 9th Report.

<sup>79</sup> J. B. Scott, 2 Am. L. S. Rev. p. 5, quoting President Eliot.

<sup>80</sup> The foregoing is the substance of gleanings from many sources.

<sup>81</sup> Harv. Reg. Grad. School 1908 p. 17.

as a practical, useful, actual rule of action is forgotten,—a discussion of only imaginary, unreal, unpractical suppositions about impossible situations, signifying nothing, just “lapwings’ riddles,” as Coke called some of the lectures of his day. There is, too, an unwise tendency under the case system to gorge the student with too much reading, beyond his capacity to digest and assimilate. “Industry in acquisition of legal principles may be carried to such extent as to be hurtful, in that it may leave no time for proper digestion and assimilation.”<sup>81a</sup> The case system made slow but sure headway in Harvard, yet it was 20 years before it made its first conquest outside by ousting the Dwight system at Columbia, and disrupting that school. Harvard graduates had by 1890 made their mark, proved the efficiency of the system, and have, as teachers, carried it extensively into other schools; in 35 of the 130 schools it is the prevailing method, while it obtains to some extent in most of the schools. The next step in the case system, according to Professor Kales, is to remake the case books,—so as to present the present living law in the particular jurisdiction where the school is located.<sup>82</sup> To this Dean Ames answers, the object at Harvard is to cultivate the power of legal reasoning by the study of the opinions of the greatest judges,—and not knowledge of the law of any particular jurisdiction. At the University of Michigan, where the case system is actually in use almost as extensively as the so-called *case* schools, the case books used are prepared to give the modern, though not local, law, and are accompanied by short outline texts, such as Mechem’s Partnerships, and Goddard’s Bailments, and others. These have proved to be very satisfactory. Professor Ballantine proposes to supplement the case system by a “Fact” or “Briefing System,”—or rather a “Problem” system,—statements of facts, the student being required to search for the law in the original sources, and apply it to a solution of the problem stated, just as the lawyer is obliged to do. Professor Rood, at the University of Michigan, has for a year been working along a somewhat similar line, in his Digest of Criminal Law. He argues this will be a real advance on the case system, and can be made to accomplish the end Mr. Kales seeks.<sup>83</sup>

In 1897, only 75 out of 349 law teachers gave their entire time to the work. Now in 38 schools so reporting, 142 out of 453 instructors give their time exclusively to the teaching of law. One school,—St. Paul Law School,—however, says it is “a lawyer’s school for

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<sup>81a</sup> Univ. Miss. Bul. 1907, p 152.

<sup>82</sup> 31 A. B. A. R. 1091 (1907) with discussion, p. 1012 et seq.

<sup>83</sup> 2 Am. L. S. Rev. 135 (1908).

lawyers, and has no professional teachers."<sup>84</sup> This is an extreme view, but there is no doubt that the prevailing view in law faculties and among lawyers, is that law is "so distinctively a practical science" that, as Professor Mechem says, "no man can be really the best teacher of the law who has had no experience in practice."<sup>84a</sup> Salaries have undoubtedly increased considerably in the last few years. At Michigan they are twice what they were 20 years ago, and nearly three times what they were 35 years ago. In 1891, \$5 per hour of actual instruction was considered fair pay; now not much less than twice that is supposed to be right. Pay, however, varies from \$3 to \$30 per hour of instruction.

In several schools instruction is given daily in each of about three subjects, but in most of the best schools more subjects are taken together, each two or three hours per week. In most of the schools written examinations are held at stated intervals,—often twice a year, or at the completion of the subject. Many require regular attendance, and grade upon daily recitations, as well as final examinations. The problem method of examination, almost universal in the best schools, has made it difficult for the professional coach to pull the mere crammer through.

The degrees granted are numerous,—the LL.B. being universal, and representing anything from C. S.<sup>85</sup> + 1 L. to 4 C. + 3 L.—and + 1 L. = LL.M. quite generally. At Boston University, 4 H. + 3 L. = LL.B. + 1 L. = LL.M.; 4 C. + 3 L. = J. B. + 1 L. = J. M. At Catholic University, 4 H. + 3 L. = LL.M. + 1 L. = LL.M. + 1 L. = J. D.; 4 C. + 3 L. = J. C. D. At New York University and Brooklyn, 4 H. + 3 L. = LL.B. and 4 C. + 3 L. = J. D. At University of Chicago, 4 H. + 3 L. = LL.B., and 3 C. + 3 L. = J. D. The majority of the Committee on Legal Education recommends: 4 H. + 3 L. = LL.B. or B.C.L. + 1 L. = LL.M.; 3 or 4 C. + LL.B. + 2 L. = J. D. or D. C. L. Anything less than LL.B. (4 H. + 3 L.) = L. B.<sup>86</sup>

The correspondence school and method are to be reckoned with; it meets a want, costs little, can be done at home or wherever the mail reaches; one can begin or continue as he chooses; go fast or slow; everything is before the student in print, and does not vanish with the hearing; work is individual, and each student does it all; there is no loss of time in unprofitable discussion; it develops self-

<sup>84</sup> Ann. 1907. This is not the ideal by any means. Article by Dean Hutchins, 8 Col. L. R. (1908) p. 362.

<sup>84a</sup> 30 A. B. A. R. 179.

<sup>85</sup> C. S.—Common School; H—High School; C—College; L—Law; figures indicate years of school work.

<sup>86</sup> 31 A. B. A. R. (1907) p. 590.

reliance and independence,—and less than one per cent of the graduates of the best schools fail to pass bar examinations,—a better showing than regular schools.<sup>87</sup> Of course they are commercial (as are some other schools), there is great opportunity for fraud, the inspiration of personal contact with teacher and coworker is absent, yet there are several thousand law students taking their courses. The best of these schools explicitly advise attendance upon resident schools, wherever such is possible; the best of these, too, are better than the poorest resident schools and much better than the usual office study.

By reference to Table I, it will be seen that the attendance in 1840 was 392; in 1860, 1,109; in 1880, 3,134; in 1900, 12,516; in 1906, 15,411.<sup>88</sup> One-third is said to be in night schools, and in addition there are several thousands in the correspondence schools. In 1840 Harvard had 120 law students; Yale, 45; University of Virginia, 72; Cincinnati, 25. Table I also shows growth relative to population. In 1840 there was one law school student to 43,000 of the population; in 1880, one to 28,300; in 1900, one to 6,100. In 1879 the Committee on Legal Education of the American Bar Association said: "There is little if any dispute now as to the relative merit of education by means of law schools, and that to be got by mere practical training as an attorney's clerk. \* \* \* The verdict of the best informed is in favor of the schools."<sup>89</sup> It was five years before this bore fruit. From 1840 to 1885, on the average, law school attendance scarcely kept pace with the increase in population; from 1885 to 1895, however, law attendance trebled, while the population increased only 20 per cent; since then attendance has increased nearly 75 per cent, and population 21 per cent. Prior to 1894, the law school attendance in the North Atlantic States exceeded that in the North Central States; since then the balance has been the other way, and is now at least 1,000 more; the balance of population, however, changed 30 years before.

The increase of law school students has overtaken the increase in the number of lawyers. In 1860 there was one law school student to every 30 lawyers; in 1880, one to every 20; in 1900, one to every 9. In the 10 years, 1870 to 1880, the lawyers increased 23,401; the law school graduates turned out in the same period numbered 7,000, or about one-third; from 1880 to 1890, the figures were 25,495 and 10,000; from 1890 to 1900, 24,830 and 25,071 respec-

<sup>87</sup> Professor Ellis, 2 Am. L. S. Rev. 170.

<sup>88</sup> The Com. on Legal Ed., of Am. Bar Assn. for 1907, reports 17200, Rep. Am. Bar Assn. for 1907, p. 538.

<sup>89</sup> Am. Bar Assn. Rept. 1897, p. 216.

tively; in other words the law school graduates (if they had all entered the profession), would have more than recruited the increase in the profession in the last 10 years. It is said that about 1860, not more than one lawyer in ten had attended law school, but a large proportion of those admitted were college graduates.<sup>90</sup> In 1868 it was estimated that fully three-fourths of the lawyers came from law offices.<sup>91</sup> About 15 years ago it was estimated that 70 per cent of the lawyers came to the bar through law offices. Now in New York, 70 per cent or more come from the law schools. It is also stated that 26 per cent of office students fail upon the first examination for admission, and 14 per cent of law school students.<sup>92</sup> In 1900, the New York examiners examined 876 candidates, of whom 157, or 18 per cent, had come with an exclusive office education; the failures among them were 25 per cent, while only 10 per cent of the others failed.<sup>93</sup> In Ohio, 80 per cent of the failures were from law offices, and 95 per cent of the graduates from regular law schools passed.<sup>94</sup> Of over 10,766 applicants for admission to the bar examined in Massachusetts, Connecticut, New York, New Jersey, Maryland, Pennsylvania, Ohio, Illinois, Minnesota, in 1904-5-6, 6,821, or 63 per cent, passed.<sup>95a</sup>

This growth in law school attendance is due to many factors: "The verdict of the best informed," has been in its favor and law students have been advised to attend law schools. Mr. Heron had said American lawyers receive a superior legal education in the law schools; Chief Justice WAITE pointed out "law schools are a necessity;" Mr. Bryce had noted the "extraordinary excellence of many law schools" in the United States; and Sir Frederick POLLOCK said, the American schools "do teach law in an efficient way" and "do make a better instructed and a better practical lawyer." The students themselves have found it to be necessary. They have difficulty in passing the examinations otherwise; and besides, the client knocks and his thirty pieces of silver take the preceptor's time;<sup>95</sup> the stenographer takes the dictation; the typewriter does the copying,—and the student becomes the errand boy,—and effective study is impossible. As Blackstone said, they find they have begun at the wrong end. In 1829, Judge STORY said there were more than 150 volumes of law reports and complained of the great bulk, and

<sup>90</sup> Am. Bar Assn. Rept. 1879, p. 242.

<sup>91</sup> 4 West Jur. 128.

<sup>92</sup> Comr. of Ed. Rept. 1899-1900, p. 1962.

<sup>93</sup> Judge Finch, address, N. Y. State Bar Assn., January, 1901. Albany Law School Ann. 1906, p. 30.

<sup>94</sup> Ann. Col. of L., Univ. of Me., 1906-7, p. 10.

<sup>95a</sup> Compiled from 31 A. B. A. R. p. 570-2.

<sup>96</sup> J. B. Scott, 2 Am. L. S. Rev. p. 7.

incredible growth of the law.<sup>96</sup> His estimate was then too low. It has been more correctly stated that in 1600, the law was found in about 15 volumes; in 1650 there was a wheelbarrow load; in 1700, a wagon load; in 1800, 1,000 to 1,200 volumes; in 1850, 2,000 volumes; and now, nearly 10,000 volumes,—a 4-inch wide page 1,000 miles long,—700,000 decisions, increasing at the rate of 25,000 cases annually, or 250 volumes and 150,000 pages. "The lyfe so short, the craft so long to learn," "the dismal and overpowering dreariness of the undertaking" to master "the lawless science of our law," by the student alone, "may well make his soul sink within him," as it did the valiant Sir Henry Spelman, three hundred years ago. Then again, since about 1850, codes of civil procedure have been adopted in half the states. The student can no longer learn a large part of the law by copying forms of pleading—but must, perforce, study the fundamental basis of liability in order to know whether "the facts constitute a cause of action." Only the expert guides in the law schools have, or can take, the time to point out the devious path through this wilderness, or indicate the course of development of principles therein.

Six hundred years ago BRACTON said: "The utility of a study of the law also is that it ennobles the learners, and it doubles their honors and their profits, and makes them to be promoted in the realm, and to sit in the King's hall, and in the seat of the King himself." This has been so abundantly verified in English and American history, that the law is looked upon as the open door to political preferment. And recently, it is almost as much so in business. The banker, the newspaper reporter or editor, the trustee of estates, the real estate man, the insurance man, the credit man, and business men generally, have all found out the exceeding value of legal training to one not intending to practice, and are more and more studying law,—for they are thereby not only better prepared for their own work but can advise with a counselor to better advantage when necessary. While these conditions continue the law school attendance is likely to grow faster than the population.<sup>97</sup> In 1860, there was one lawyer to every 947 of the population of the United States; the same was true in 1870, but in 1900, there was one lawyer to every 668 of the population. Some years ago it was said that there were in France one lawyer to 4,762 of the population, and one to 6,423 in Germany.<sup>98</sup>

Eighteen years is usually the minimum age requirement for

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<sup>96</sup> 1 Am. Jur. 13, 31.

<sup>97</sup> Bernard Steiner, 1 Am. L. S. Rev. p. 82.

<sup>98</sup> Address J. N. Fiero, Law as a Life Work, 1906 p. 10.

admission to law schools, but Pennsylvania and one or two other schools require 20 years unless the student is a college graduate. Approximately, 45 per cent of the law students at Michigan are under 20 years of age upon admission; 45 per cent are between 20 and 25 years of age, and 10 per cent are over 25. At Harvard, the average age of students on admission, from 1873 to 1893, was 22.9 years for all; for college graduates, 23.2 years, and for non-graduates, 22.2 years, or the college graduates are one year older than the non-graduates.<sup>99</sup> At Columbia, the average age of students on admission to the law department is over 22½ years; of the college graduates admitted, one-third are over 23 years, while of the non-graduates one-half are under 20 years.<sup>100</sup> At Pennsylvania, the average age is over 21;<sup>101</sup> they have recently made the rule there that non-graduates must be 20 years of age and strictly comply with the requirements for admission equivalent to entering the freshmen class of the university without conditions.

Many others besides Pennsylvania have concluded that students under 20 are too young to enter upon the serious study of the law with advantage to themselves or to the class which they enter. From the 45 per cent of our freshmen who are under 20, over 60 per cent of our failing or very weak men come; from the 45 per cent between 20 and 25 years of age, scarcely more than 30 per cent of the failures come; while from the 10 per cent over 25, probably not more than 6 per cent of the failures come. Of those who are over 21 and are conditioned, or fail in their first semester of their freshman year, the larger number are able to remove them after they get well into their work; but those under 21 seldom are able to do so.

In 1873, 39 per cent of law school students were degree men; in 1890, only 16 per cent, and now, only 26 per cent.<sup>102</sup> In Harvard Law School in 1904, 99.6 per cent were degree men; in Columbia, 88.2 per cent; in Chicago, 60 per cent; in Yale and Pennsylvania, 35 per cent each, and in Michigan, 13 per cent.<sup>103</sup> Between 1896 and 1906, for the eight years for which figures are obtained in the University of Michigan Law School, the degree men made up 14 per cent of the students; and for the past 12 years an average of 20

<sup>99</sup> Report of Dean, 1893-94 p. 127.

<sup>100</sup> Report of Dean Kirchwey, 1902-3.

<sup>101</sup> Report of Dean Lewis 1902-1905.

<sup>102</sup> The figures are for schools reporting on the subject. (Compiled from Reports of Comr. of Ed.)

1873, 1,155 students, 457 with degree, = 39 per cent.

1883-4, 1,806 students, 677 with degree, = 37 per cent.

1890-91, 3,261 students, 498 with degree, = 16 per cent.

1893, 4,182 students, 816 with degree, = 19 per cent.

1898, 6,289 students, 1,825 with degree, = 29 per cent.

1903-4, 9,345 students, 2,601 with degree, = 27 per cent.

1906, 12,418 students, 3,291 with degree, = 26 per cent.

<sup>103</sup> Report of President Eliot for 1904.

per cent of our seniors have been college graduates. For the 10 years, 1824 to 1833, 77 per cent of Yale law students were college bred; from 1844 to 1853, 55 per cent; from 1864 to 1873, only 22 per cent; from 1884 to 1893, 37 per cent, and from 1894 to 1903, 33 per cent. At Harvard, in 1870, 47 per cent of the law students were college graduates; in 1890, 70 per cent; in 1905, 98 per cent.<sup>104</sup>

Among the six-year men in the Law School of Michigan, in the four years, 1902 to 1906, 12 men, among a total of 120, have received 20 conditions, and only one has been an entire failure; in the two freshmen classes, from 1904 to 1906, there have been 130 failures, or one out of every five students. Among the six-year men, 10 per cent have received conditions; while among freshmen generally, more than 40 per cent get one or more conditions. Of the 79 editors of the Michigan Law Review, selected for good scholarship, 39 have come from 254 college graduates, while the other 40 have come from 1,024 non-graduates. Of 19 honor men at the University of Pennsylvania, 13 have been college graduates; at Columbia, 223 out of 237, over 94 per cent, of honor men have been college graduates; at Yale, college graduates, making up about one-third of the class, get two-thirds of the prizes.<sup>105</sup>

Early in the last century, very few came to the bar without serving a real apprenticeship in a law office for from three to seven years, and in some states this time was fixed by law. There were exceptions, however.<sup>1</sup> In 1642, attorneys were examined and licensed by the courts in Virginia; in 1680, by the Governor; in 1732, by examiners appointed by the Governor; in 1769, by examiners appointed by the courts, and from 1786 to 1881, any three judges may grant a license to any person "duly qualified"—and "scores of ignorant, stupid, wicked pettifoggers have been let loose like wolves upon the fold."<sup>106</sup> However, in many places a prejudice existed against such aristocratic lawyers, and about 1840, or before, provisions were made for the admission to the bar of any one upon motion, without any adequate preparation, either literary or legal. The "*moral character*" lawyers of New Hampshire, and the "20 dollar lawyers" of North Carolina, with others of a like kind in many other states, brought the bar of the United States as a whole to "its lowest ebb by 1870."<sup>107</sup>

In 1878, only 18 out of the 38 states prescribed any definite time of study, and of these nine were North Central or Western States. In 1879, the Committee on Legal Education of the American Bar

<sup>104</sup> Compiled from Dean's Report, Yale Law School, 1905, p. 152.

<sup>105</sup> Report of Dean Rogers, Yale Law School, 1905, p. 156.

<sup>106</sup> Rept. Com. on Legal Ed. A. B. A. 1881, p. 276.

<sup>107</sup> Rept. Com. A. B. A. 1881, p. 242; 15 Am. L. R. 298.



Association recommended a three-year course of study and written examinations; the former was approved, the latter not, by the association in 1881. Nothing more was done until 1891, when it recommended at least two years' law study and written examinations by a permanent committee, and in 1897, it recommended "that as soon as practicable students be required to study three years."<sup>108</sup> And the committee of 1907 recommends three years' study for college graduates, and four years for others.<sup>109</sup> In 1879, three years' study was required in seven states; now, in 23. In 1879, uniform examinations were required in five states; now, in 42. In 1879, preliminary educational requirements were made in only two states; now, in 16. All the North Atlantic and the North Central, with most of the Western States, have State Boards of Law Examiners, or their equivalent; and in nearly all the North Central States a preliminary education substantially equivalent to a three-year high school course is required. New York was one of the first states to make preliminary educational requirements. Prior to 1846, a seven-year clerkship, reducible to three by college graduates, was required for admission. The Constitution of 1846 swept this away, and provided admission to the bar should be subject to no conditions, except age, sex, citizenship and legal qualifications, to be determined by examination. In 1871, the matter was vested in the Court of Appeals, which established a three-year clerkship requirement, or two years for college graduates. In 1882, a rule was made requiring preliminary examinations in common school branches, with English and American History.<sup>110</sup> In 1891, Latin, geometry and civics were added.<sup>111</sup> And in 1892,<sup>112</sup> this was raised so that "forty-eight counts" or a good high school education was necessary for the LL.B. degree.<sup>113</sup> In the North Central States and New York and Pennsylvania, the following are the preliminary educational subjects in which examinations are held: Grammar, 6 states; English Composition, 7; Rhetoric, 7; English Literature, 6; Latin, 3; Arithmetic, 5; Algebra, 7; Geometry, 5; Geography, 6; General History, 6; English History, 7; United States History, 7; Civil Government, 5; Political Economy, 3; Physiology, 2; Biology, 2; Bookkeeping, 2; Land Surveying, 1. New York allows many substitutes for many of these. In Ohio and Nebraska, the subjects are not specified, but are equivalent to at least a three-year high school

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<sup>108</sup> See 31 A. B. A. R. 527.

<sup>109</sup> 31 A. B. A. R., p. 589.

<sup>110</sup> Went into effect in 1884.

<sup>111</sup> This law students' certificate called for "22 counts" in certain subjects, or any 30 academic counts could be offered.

<sup>112</sup> Went into effect in 1893.

<sup>113</sup> Report of Dean Langdell, 1876-77, p. 93.

course. In some of these states, also, the amount of work required is equal to a good, full four-year high school course. Details of foregoing matters for 1881, 1895 and 1907-8 are given in Table VII.

In Michigan, in 1846, admission was to be by license granted by the Supreme Court after such examinations as it chose to make; this privilege was extended to the Circuit Court in 1849; and in 1863, graduates of the University of Michigan were to be admitted on production of their diploma, and this privilege still continues. In 1895, the State Board of Examiners was created, and this now requires a preliminary education approximately equivalent to a high school course. In 1897, the privilege of admission on diploma was extended to the Detroit Law School.

In 1859, New York began the custom of admitting to the bar upon diploma from law schools; this privilege, after much abuse, was withdrawn in 1882.<sup>114</sup> In 1887, out of 49 law schools the diploma of 25 admitted to the bar; 15 did not, and nine did not report. Since 1895, none of the North Atlantic States admit on diploma. The diploma still admits to the bar in 17 states. It does not now, however, in Massachusetts, Connecticut, New York, Pennsylvania, Ohio, Illinois, Iowa or Missouri; but in Indiana, Michigan, Wisconsin, Minnesota, Kansas, Texas, Oklahoma, California and Washington, the diploma of their State University Law Schools, and often of many other schools, admits to the bar. In 1901, this practice was condemned by the Committee on Legal Education, and by the Association of the American Law Schools,<sup>115</sup> and in 1905 the section on Legal Education of the American Bar Association did likewise,<sup>116</sup> and so does the committee of 1907.<sup>117</sup> This practice has been vigorously condemned in various places for 30 years.<sup>118</sup>

In England,<sup>119</sup> for a long time no one has been admitted to any Inn of Court to become a barrister until after passing a stiff examination in English, Latin, and English History; and since 1877, no one is allowed to enter into Articles of Clerkship as an apprentice to become an attorney or solicitor until he has passed a stringent examination in English Composition, Arithmetic, Algebra, Geometry, Geography, Elements of Latin, and one other language. The law degrees from no English university admit to the bar. In Canada, preliminary university education is required in all cases;

<sup>114</sup> See the most valuable article by L. A. Delafield (1876), 7 Penn. Mo. 960.

<sup>115</sup> A. B. A. R. 1901, pp. 407, 580, 582.

<sup>116</sup> A. B. A. R. 1905, pp. 560, 580.

<sup>117</sup> 31 A. B. A. R. 1907, p. 589, 9th resolution.

<sup>118</sup> See 1 Cent. L. J. 320, 342, 390, 423, 550, 553.

<sup>119</sup> These statements are based mainly upon Prof. Burdick's article in 1 Am. L. S. Rev. (1904), p. 175, and Rept. Com. Am. B. A. 1893.

no diploma, except in Nova Scotia, admits to the bar; and public examinations are required. On the Continent, admission to the bar comes only through the university, admission to which is only through the gymnasium (or its equivalent), and which approximately equals the first two years in our college. Upon entering the university, the law student immediately begins his law studies, to continue for  $3\frac{1}{2}$  years, when he takes his graduate examination, and after that must serve three years more in practical preparation,—one in administrative service, and two in clerical work in connection with the law courts, all without compensation. The law student in Russian law schools is required to study four years, 24 hours per week, which makes the course twice as long as our three-year course, with 16 hours per week.

"Education is the best police," said Webster, and it might be added that the educated and high-minded lawyer is the best policeman. It is pretty generally agreed that better preliminary preparation of law students is most desirable for the students, to the teacher, to the cause of higher education, and to the public generally. Two score of legal systems, in all states of development, the multifarious industrial life, touching all of these systems, the intricate political system, the ever increasing use of complicated machinery, the advance in knowledge in every direction, the continually expanding commercial intercourse, all require a better equipped bar than ever before. Scarcely anything less than the satisfactory completion of a high-grade college course, or its equivalent in some other way, can furnish the training and discipline reasonably necessary to enable the student successfully to cope with the situation that confronts him.<sup>120</sup> Adequate preparation of the student is also necessary for the growth of the teacher; a low standard of preparation in the student begets a low standard of instruction; the teacher must get down to the level of the taught; the teacher, forced to stoop for years, forgets to rise; he loses strength and capacity, and ceases to grow.<sup>121</sup> Again, for a long time, the failure of those who manage professional education to require adequate preparation from those who wish to enter therein has been one of the most distressing and potent influences against the advance of all good knowledge in the colleges of the country, with which they have had to contend. Requirement of proper preliminary education before entering the professions would furnish the strongest possible support to the colleges and the universities of the land, and redound to the benefit

<sup>120</sup> Address of Dean Kirchwey, 27 A. B. A. R. (1904), p. 518, 1 Am. L. S. R., p. 269; Address of Mr. Lawrence Maxwell, 28 A. B. A. R. (1905), p. 582.

<sup>121</sup> Judge Finch, N. Y. Bar Ass'n, 1901.

of all.<sup>122</sup> The public interests, too, are involved. "There is no greater danger to society than a lawyer with a little learning." It is a shame that in 1894, it could be said without protest at the American Bar Association, "that an inundation of incompetency has in recent years deluged our profession, and brought it into common disrepute," and judged "by the results of its service in actual litigation, the profession is today a monstrous charlatan;" and about the same time Mr. JUSTICE BREWER could say that it would be a blessing to the profession and to the community if a deluge would engulf half of those who have a license to practice. In one of the most eloquent addresses<sup>123</sup> of recent years, he pleaded for the better preliminary education of the lawyer,—the intricacy of the law, the complexity of our business life, and the preservation of the confidence of the community all require it. That many would be deterred from entering by such requirement is answered by the fact that many should be deterred; the general level should not be lowered for fear some Lincoln might not be found or would be excluded,—for such as he would work his way up in spite of all difficulties, and seldom would such a hero be turned away.

In a generation the wealth per capita of our people has doubled, and in the western states nearly trebled. There, of course, is great disparity in the distribution of wealth; probably 90 per cent of the people own only about 20 per cent of the wealth, and the other 10 per cent of the people own the other 80 per cent; but this is about as it has been for the past generation.<sup>124</sup> One hundred years ago the annual production per capita was 10 cents per day; 50 years ago, 30 cents, and now, 55 cents.<sup>125</sup> In 1880, \$1.79, and in 1900, \$2.70 were expended for public school education for each \$1,000 property; and in 1870, \$1.75, and in 1904, \$3.36 per capita were so spent. In our colleges and universities \$15,000,000 are annually paid for fees and tuition; over \$10,000,000 come from the state and municipal aid, and in many years as much as \$15,000,000 more are received from benefactions. In 1870, the average schooling received by each individual in the country was 672 days; 1880, 792; 1890, 892, and in 1906, 1,078 days.<sup>126</sup> In 1890, the average schooling received in the North Atlantic States reached six years, of 200 days each; the same average was received in the North Central States in 1896, and in the Western States in 1903. In 1899, one person in every

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<sup>122</sup> Pres. Eliot, Report 1904.

<sup>123</sup> A Better Education the Great Need of the Profession, A. B. A. R. (1895); *Comr. of Ed.* 1894-5, p. 1254.

<sup>124</sup> Spahr: *Distribution of Wealth* (1896); Ely's *Evolution of Industry* (1903); *Encyc. Soc. Ref.* 1907, p. 1280.

<sup>125</sup> *Comr. of Ed.* 1889, p. xxiii.

<sup>126</sup> *Comr. Ed.* 1906, p. xv.

477 of the population was receiving higher education; in 1904, one in every 323. In 1904, one in every 286 was receiving higher education in the North Atlantic States; the same was true as to the North Central States; while in the Western States, one in 270 was receiving higher education. In other words, as large, or a larger, proportion of the population in the Central and Western States gets a higher education as in the Eastern States. Details are given in Table IV. It seems, however, that in 1895, 17 per cent of the high school pupils were preparing for college, while only 10 per cent were in 1906.<sup>127</sup> In the high school, 43 per cent are in the first year; 26 per cent in the second; 18 per cent in the third, and 13 per cent in the fourth; while only about 3 per cent ever go to college.<sup>128</sup>

There were in 1906, 493 colleges in the United States, of which 94 were in the North Atlantic States, 197 in the North Central, and 45 in the Western States. If those in the North Central States were uniformly distributed over the territory, the longest distance any one would have to go to reach a college would be less than 50 miles. In 1876, there was one college student to every 1,390 of the population; in 1904, one to every 690. In 1906, three persons were getting higher education in the United States where two were in 1890; this was so in the North Central States; in the South Atlantic States, five were, where three did in 1890; and in the Western States, four were, where one did before. In 1904, the average tuition paid in colleges was \$57 per student; in the North Atlantic States, it was just twice this, or \$114; while in the North Central States, the average tuition was only \$42. Tuition is free in the Law Departments in the Universities of Indiana, Missouri, Wisconsin, Texas, Washington, and in Hastings College of Law. The fees for three years at Harvard are \$450; Yale, \$455; Columbia, \$501, and University of Pennsylvania, \$515. The cost of tuition, fees and board are estimated at Columbia University: low, \$380 per year; liberal, \$565. At Michigan: low, \$170; liberal, \$285, or about one-half as much as at Columbia. In the North Atlantic States, about 5 per cent of their college students attend college outside of those states; in the Central and Western States, nearly 10 per cent go elsewhere. The colleges in the Eastern States get 15 per cent of their students outside of those states, while the Central states get only 6 per cent of their students elsewhere. From the foregoing it is evident that the desire, opportunity, ability, and facility of getting a college education in the Central States are

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<sup>127</sup> *Comr. Ed.* 1906, p. 703.

<sup>128</sup> *Ib.* 704.

approximately as great as in the Eastern States, and as large, or larger, percentage of the population obtain such education as they do in the East.

Elementary education is in the reach of nearly every child in the land, rich or poor; and if the 9,560 high schools in the country were uniformly distributed, no pupil would be more than 14 miles from a secondary school; and in the Eastern and Northern States, it is safe to say that only a small per cent of the pupils is farther than five miles from a respectable high school; secondary education is, therefore, within the reach of all. We have seen that there are also facilities near at hand for the higher education of all. The difficulty here, in recent years, has been in the raising of the educational requirements for admission to college. For 40 years this has been done so rapidly that the secondary schools have had great difficulty in providing the necessary preparation. It is safe to say that in all the more important colleges of the country the admission requirements are nearly two years higher than 50 years ago.<sup>129</sup> Such is approximately true of the University of Michigan, and it is typical. During the same period the college course has been expanded, so that from one-quarter to nearly one-half more work is required, and nearly every conceivable subject of study has been brought into the university fold (except the study of the law of our country) under the elective system.<sup>130</sup> The unlimited choice of subjects has, without doubt, often led to a much poorer preparation for the study of law by college students than the older and much stricter requirements of the traditional classical course.

The consequence of the increased requirements for admission to colleges and the lengthening of the course has been to raise the age of graduation about two years. Prior to 1870, college catalogues usually state the minimum age of admission at 14 years; now it is generally 16 years, and at Harvard the average age of freshmen on entering is 18 years;<sup>131</sup> where this is the case (and it is generally so), the student is 23 at graduation, 26 or 27 when he completes his professional course, and nearly 30 before he can be a settled and substantial factor in the social life about him, with nearly half his life gone.<sup>132</sup>

This situation is believed by many to be intolerable,—unjust to the individual and unjust to society. Judge BALDWIN, of Yale, tersely says: "Life is not long enough to justify such an expendi-

<sup>129</sup> Comr. of Ed. 1902, p. 928-36, where the requirements for Harvard for 250 years are given. *Ib.* 1896-7, p. 457. John Trumbull (150 years ago or more) passed the entrance examinations for admission to Yale College, when he was 7 years of age.

<sup>130</sup> *Ib.* 1903, p. 1145 (Development of College Course from 1650 to present).

<sup>131</sup> Comr. of Ed. 1889-90, pp. 799-802.

<sup>132</sup> *Ib.* 1901-2, p. 2199.

ture of time. The world is not rich enough to pay what it costs."<sup>133</sup> Various remedies have been suggested. The Commissioner of Education points out that in the United States about 1,000 school hours per year are spent in the common schools; but of this, one year's time is lost in "learning our arbitrary orthography, and another in a vain effort to master our English system of weights and measures." Simplified spelling and the metrical system promise some relief here,—when adopted, but they would not reach the whole difficulty. Where better preliminary education for professional study has been felt to be necessary, the following schemes have been put in operation: First, the Harvard plan requires a college degree for admission to professional schools; but permits the college degree to be obtained by a student, who is willing and able to do extra good work, in three years. Second, the Stanford plan requires a college degree, but allows one year of professional work to be done as undergraduate work for the college degree. Third, President Eliot's plan, following President Wayland's plan in force in Brown University from 1850 to 1857, cutting down the college course to three years for the undergraduate degree. The Harvard authorities have two or three times refused to approve this. Fourth, the Ohio and Wisconsin state university plan requires two years of college training as preparation to undertake the professional study for the law degree. Fifth, the Chicago plan, which gives the LL.B. degree to high school graduates of proved ability, and the J.D. degree to college graduates who have completed the law course. Sixth, the Illinois plan, which prescribes one year's college work as a requirement for the LL.B. degree. Seventh, the Indiana plan, creating an A.B. course with Law as a major subject,—10 hours per week in both the junior and senior years in college,—and allowing the completion of the work for the A.B. and LL.B. degrees in five years; another rule allows the election of Law as a minor subject in college, and gives the two degrees for six years work. In all the foregoing, some provision is made for recognizing and rewarding an exceptional man when he is found.

At the University of Michigan (and much the same elsewhere), there are 700 different courses, all elective but three toward the A.B. degree, and selections can be so made as to count for nearly two years toward the Medical or Engineering degrees. If, as Blackstone said 150 years ago, law were not an object of academical knowledge, it were high time to make it so in the 93 universities having law

<sup>133</sup> Judge BALDWIN, *Readjustment of Collegiate to Professional Course*, Comr. Ed. 1899-1900, p. 615; *Ib.* 1904, p. 1599 (Pres. Eliot).

departments, and if this should be done it would be a step in the right direction.<sup>135</sup>

In 1881, Doctor Frieze, then Acting-President of the University of Michigan, pointed out that in Germany the gymnasium performed the whole work of secondary education, and at the age of 19 turned the student over to the university, to begin at once his professional education, and he was then, in scholarship, about two years beyond our high school graduate, or through the sophomore year in college. "If the professional schools would require all candidates for professional degrees to complete a high school course and two years in college, our system would be complete \* \* \* I believe, also, that it would best promote the interests of higher education and of the university."

In 1874, the University of Michigan was the first in the United States to require a preliminary examination for admission to its Medical Department, and three years later established a two-year graded course of nine months each, with rigid examinations, when only two others had done so. A decline in attendance was expected, but instead, as President Angell says, many students were "attracted hither by the extension of our term. They desire the largest and best training they can secure." The Harvard Law School had the same experience in 1897, and President Eliot says: "Persons who held academic degrees saw in advance that Harvard Law School was going to be a good place for them." It is generally so after short times of adjustment, and all available facts so indicate.

It has not been the purpose of this paper to make an argument, but only to state pertinent and available facts and the opinions of those most able to speak. These seem all to point in one direction—that the time has arrived which requires, for the best interest of all, a better preparation for the more complete mastery of the more intricate law applicable to the more complex situations arising daily.<sup>136</sup> This is scarcely denied, but four main objections are made: (1) It will drive prospective students to the offices or into the poorer schools. In answer it is safe to say, as to the offices,—never to any great extent,—that day is past; as to the poor schools,—yes, to some extent, for there always are those who are "ambitious to become ignorant members of a learned profession."<sup>134</sup> Such should be excluded. They are not very numerous, and the practical good sense of our people soon leads them to know the best is none too

<sup>134</sup> Judge SCHAUCK, Ohio Supreme Court, 1 Am. L. S. R. 199.

<sup>135</sup> Judge BALDWIN, Place of Law in the Studies of a University, 1 Am. L. S. Rev. 101; Readjustment of Collegiate to Professional Course, Comr. Ed. 1899-1900, p. 615, A. B. A. R. 1898, p. —; H. B. Hutchins, The Law School as a Factor in University Education, A. B. A. R. 1900, p. —.

<sup>136</sup> See the valuable address of Dean Richards, 1 Am. L. S. Rev. 252.



good, and they are willing to struggle to reach it. (2) The poor boy with the "flush of genius on his brow" will be barred for lack of means. The fact is denied—for one or two years of college education is not now beyond the capacity of a young man of good parts to secure before he is 21. Further, such a genius is not so frequent as to justify more than an exception—always provided for—to a general rule. As a general rule, the brain of the youth does not reach its full size until he is 19, or past, and he is not ready before to do a man's mental work.<sup>137</sup> (3) It is unnecessary—good lawyers have been made without it,—and also, inefficient, for "if the ass go traveling he will not return a horse,"<sup>138</sup> even though he travels through college—all of which is granted. It is true, however, that for *the same* individual the "better preparation" would have added to the chances of success, and the victim always "mourns because he had it not." Out of the less than 1 per cent of the population who are college graduates, more than 80 per cent of the Justices of the United States Supreme Court have been chosen. "One man in 100 today obtains a college diploma. \* \* \* In all ranks, in all great places, the names of immortals are in the proportion of 50 to 1 favoring the college man."<sup>139</sup> (4) The bar will not approve. The Wisconsin Bar Association has approved the Wisconsin University two-year rule. The Ohio lawyers have not objected to the Ohio State University rule. Before the adoption of the Illinois rule, letters were sent to the leading lawyers of the state; in over 1,000 replies, a majority favored a college education before taking up the study of the law; a majority of the remainder urged at least two years in college.<sup>140</sup> The writer believes that the state universities in the Great Central States, with their large bodies of loyal alumni, in the richest territory of the country, among a people that hunger and thirst, and gladly pay, for the best to be had in the intellectual and professional life, are, or will be, justified in taking a step in this direction of better preliminary education, and that such will be approved by the alumni, the Bar and the people.

H. L. WILGUS.

UNIVERSITY OF MICHIGAN.

<sup>137</sup> Judge BALDWIN, 1 Am. L. S. Rev., p. 107.

<sup>138</sup> J. B. Scott, in 2 Am. L. S. Rev., p. 9.

<sup>139</sup> R. H. Thurston, *The College Man as Leader in the World's Work*, Comr. of Ed. 1900-1, p. 2477.

<sup>140</sup> Ann. of Univ. of Me., College of Law, 1906-7, p. 10.

TABLE I.—POPULATION, LAW SCHOOLS, AND ATTENDANCE BY POLITICAL DIVISIONS.

	United States			North Atl.			South Atl.			South Cent.			North Cent.			Western.		
Year.	Population Millions	Law Schools	Law Students	Population	Schools	Students	Population	Schools	Students	Population	Schools	Students	Population	Schools	Students	Population	Schools	Students
1840	170	8	392	6.7	4	188	3.9	2	108	3.0	1	71	3.4	1	25			
1850	232	12	487	8.6	4	148	4.7	2	104	4.3	3	181	5.4	2	54	.2		
1860	31.4	19	1109	10.6	7	525	5.4	2	132	5.7	3	243	9.1	4	209	.6		
1870	38.6	28	1653	12.3	8	601	5.9	4	370	6.4	5	106	13.0	11	576	1.0		
1875	43.9	43	2677		9	1154		13	525		6	146		15	852			
1880	50.2	48	3134	14.5	9	1172	7.6	15	516	8.9	9	217	17.3	14	1048	1.7	1	181
1885	56.1	49	2744		8	1000		15	622		8	210		15	767		3	145
1890	62.6	57	4518	17.4	9	1505	8.8	14	1010	10.9	10	352	22.3	18	1536	3.0	3	115
1895	68.9	72	8950		12	2895		16	1475		13	496		25	3634		6	450
1900	76.3	96	12517	21.0	16	4235	10.4	21	1746	14.0	18	712	26.3	34	5373	4.1	7	480
1906	84.0	98	15411	23.4	17	5243	11.4	21	2295	15.8	14	886	28.6	38	6244	4.7	8	743

Scale of population...  $\hat{=}$  2 million -

" " attendance...  $\hat{=}$  2 hundred.

— = Population; ... = Attendance.  
A = United States  
B = North Atlantic States.  
C = North Central States.  
X = United States  
Y = North Atlantic States  
Z = North Central States

Note.—The foregoing are compiled from the Reports of the Commissioner of Education, (except 1840-60)

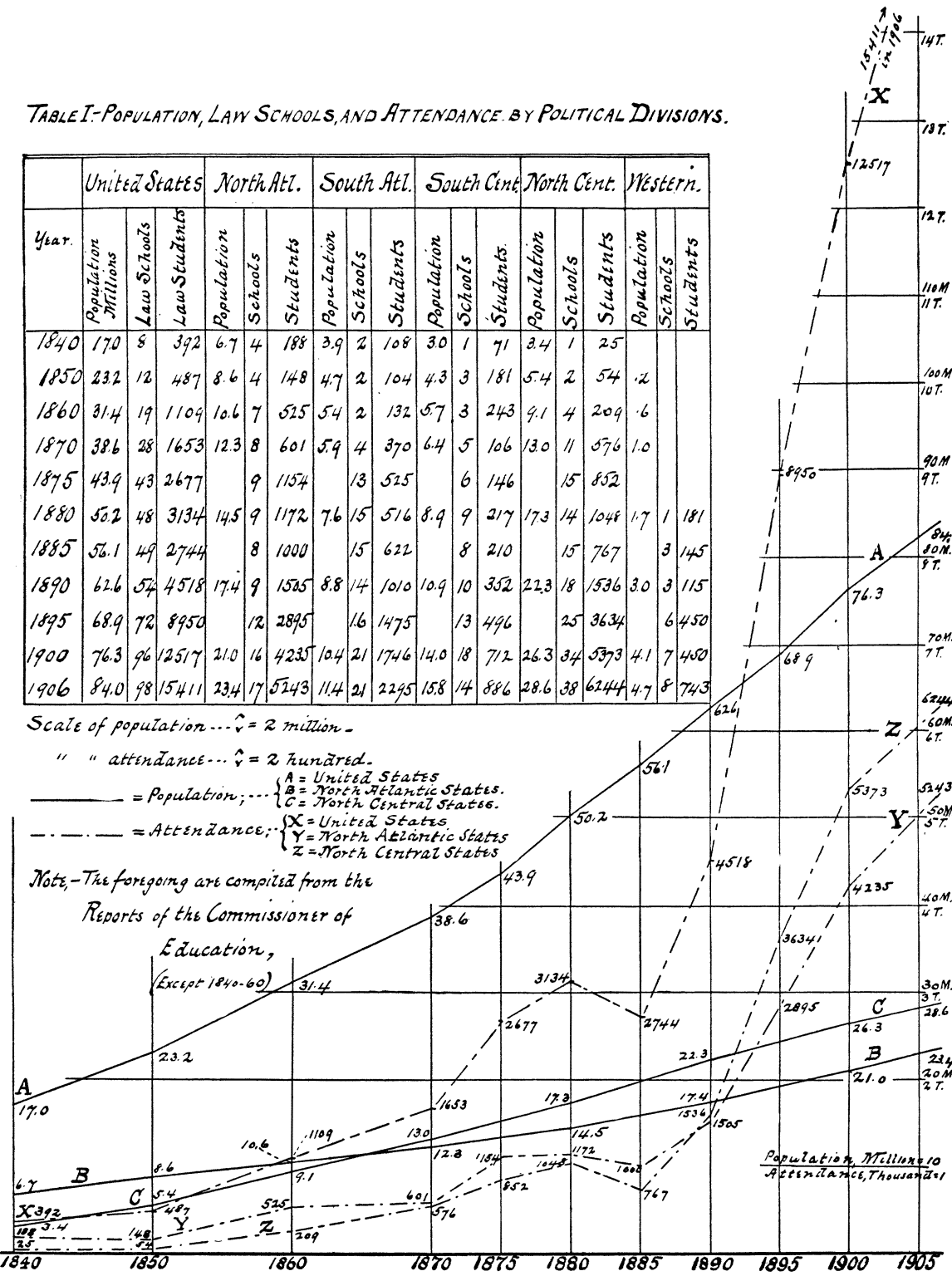


TABLE II.—LAW SCHOOLS, STUDENTS, DEGREE MEN, COURSE OF STUDY.

Year.	Law Schools of U. S.				Length of Course of Study							
	Schools	Instructors	Students	Students having a literary degree.	4 yrs.		3 years		2 years		1 yr.	
					Schools	Students	Schools	Students	Schools	Students	Schools	Students
1840	8		392									
1850	12		487									
1860	19		1109									
1870	28	99	1653									
1875	43	224	2677	623			1	165	30	2173	10	324
1876	42	218	2664	675								
1877	43	175	2811	601								
1878	50	196	3012	703								
1879	49	224	3019	669								
1880	48	229	3134	758			4	502	34	2422	5	199
1881	47	229	3227	849								
1882	48	249	3079	757								
1883												
1884	47	269	2686	677								
1885	49	285	2744	632			5	547	38	2134	6	63
1886	49	283	3054	682								
1887	50	310	3185	686								
1888	49	293	3667	662								
1889	52	345	3906	829								
1890	54	348	4518	793			10	1852	32	2249	8	214
1891	54	416	5252	942								
1892	58	507	6073	1118								
1893	63	587	6968									
1894	67	621	7311									
1895	72	604	8950				17	2786	50	5928	6	236
1896	73	658	9780	1854								
1897	77	744	10449	1932								
1898	83	845	11615	1825								
1899	96	966	11874	2170								
1900	96	1004	12516	2166	1	70	46	7799	41	3651	5	146
1901	100	1106	13642	2119								
1902	102	1155	13912	2644								
1903	99	1158	14057	2429								
1904	95	1167	14306	2601	2	310	55	9887	31	2962	2	158
1905	96		14714							3220		
1906	98		15411		2	211	64	11853	31	3291	2	127

NOTE.—See Report Comm'r Education 1896-7, p. 1781

Does not include Schools having 1 or 2, or 2 or 3 year courses, and some not reporting.

A — Total number of Law Students  
 B — " students in 2-yr. schools  
 C — " " " 3-yr. "  
 D — " " with degrees

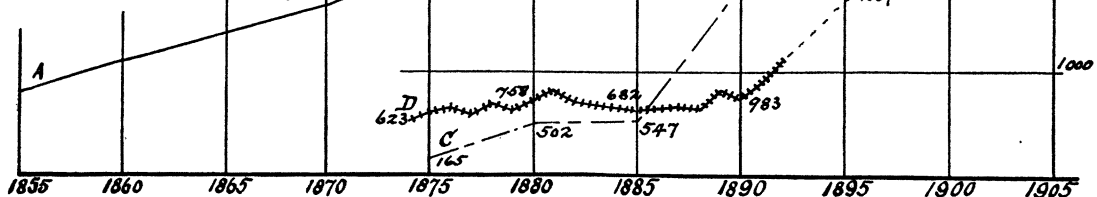


TABLE III-ATTENDANCE AT CERTAIN LAW SCHOOLS

Year	Michigan		Harvard		Yale		Columbia	
	Total	Degree Men	Total	Degree Men	Total	Deg. Men	Total	Deg. Men
1860	90				30	10		
1865	260				35	7		
1870	309				23	5		
1875	345		144	82	76	25		
1880	395		177	118	64	34	451	
1885	262		156	122	62	44	365	
1890	533		262	189	116	47	447	235
1895	670	115	413	310	224	76	292	125
1900	838	130	613	557	213	71	397	236
1905	877	167	762	707	486		368	

— = Attendance.

C = Columbia = + + + + +

H = Harvard.

M = Michigan = • • • • •

Y = Yale.

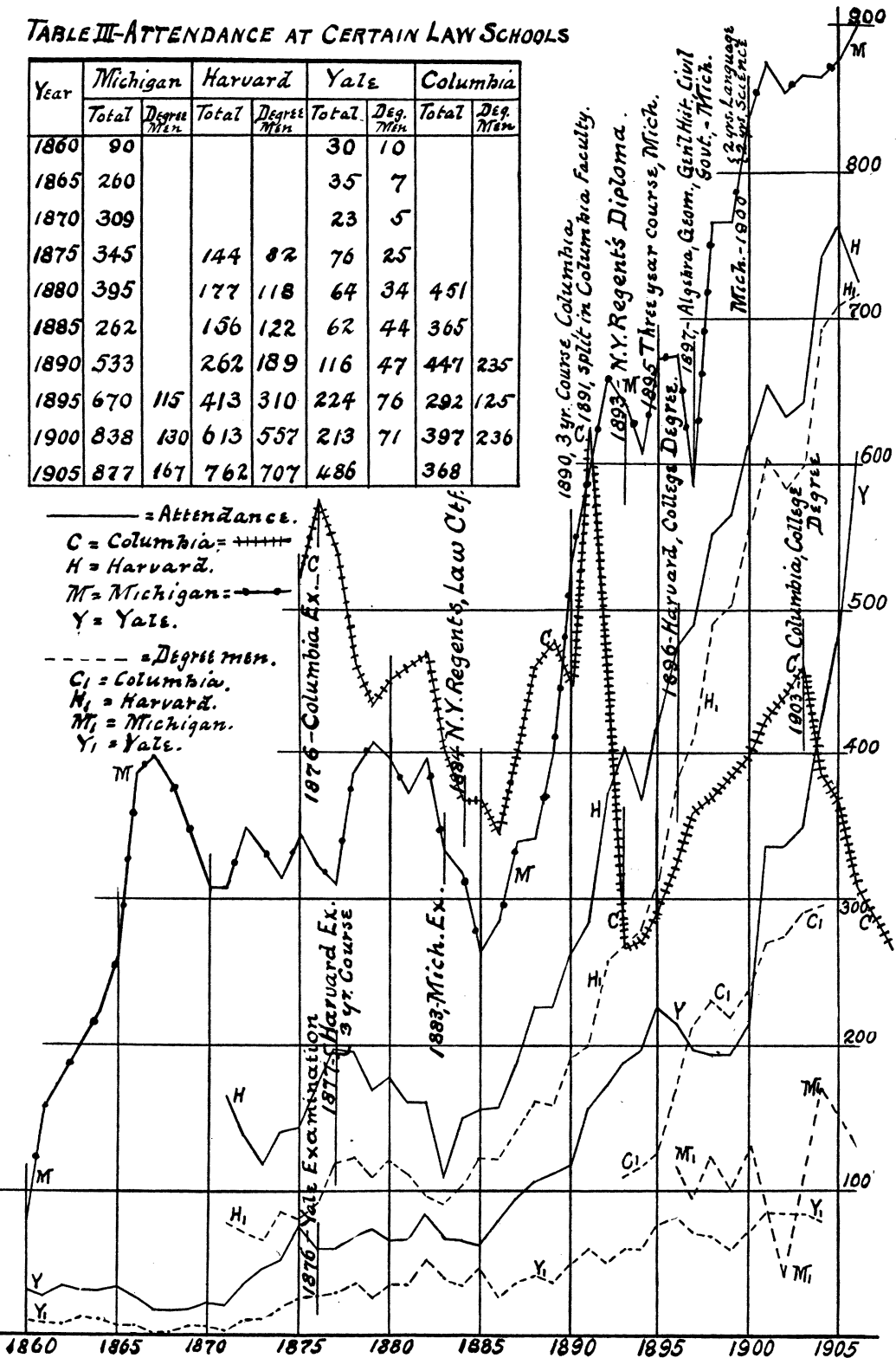
- - - = Degree men.

C<sub>1</sub> = Columbia.

H<sub>1</sub> = Harvard.

M<sub>1</sub> = Michigan.

Y<sub>1</sub> = Yale.



Year	United States					North Atlantic					North Central					Western				
	Expenditure		Students per 10000 pop.		Year	With Expenditure		Students per 10000 pop.		With Expenditure		Students per 10000 pop.		With Expenditure		Students per 10000 pop.				
	Per Cap. \$2000	Per Cap.	Elem.	Sec. H.		Per Cap. \$2000	Per Cap.	Elem.	Sec. H.	Per Cap. \$2000	Per Cap.	Elem.	Sec. H.	Per Cap. \$2000	Per Cap.	Elem.	Sec. H.			
1870	624	175	2237	58	1870	995	236	2051	72	1870	588	214	436	65	1870	674	215	1821	76	
1880	870	156	434	22	1880	1209	197	2051	72	1880	932	203	498	65	1880	1291	241	1821	76	
1890	975	224	486	33	1890	1162	276	1892	108	1890	1087	281	516	120	1890	1963	337	2016	105	
1900	1083	284	510	96	1900	1424	399	1892	108	1900	1217	327	528	120	1900	1666	421	2016	105	
1904	1234			110	1904	1568	514	1786	128	1904	1413	412		139	1904	1989	614	2214	160	
1906		366	2053	37	1906					1906					1906				42	

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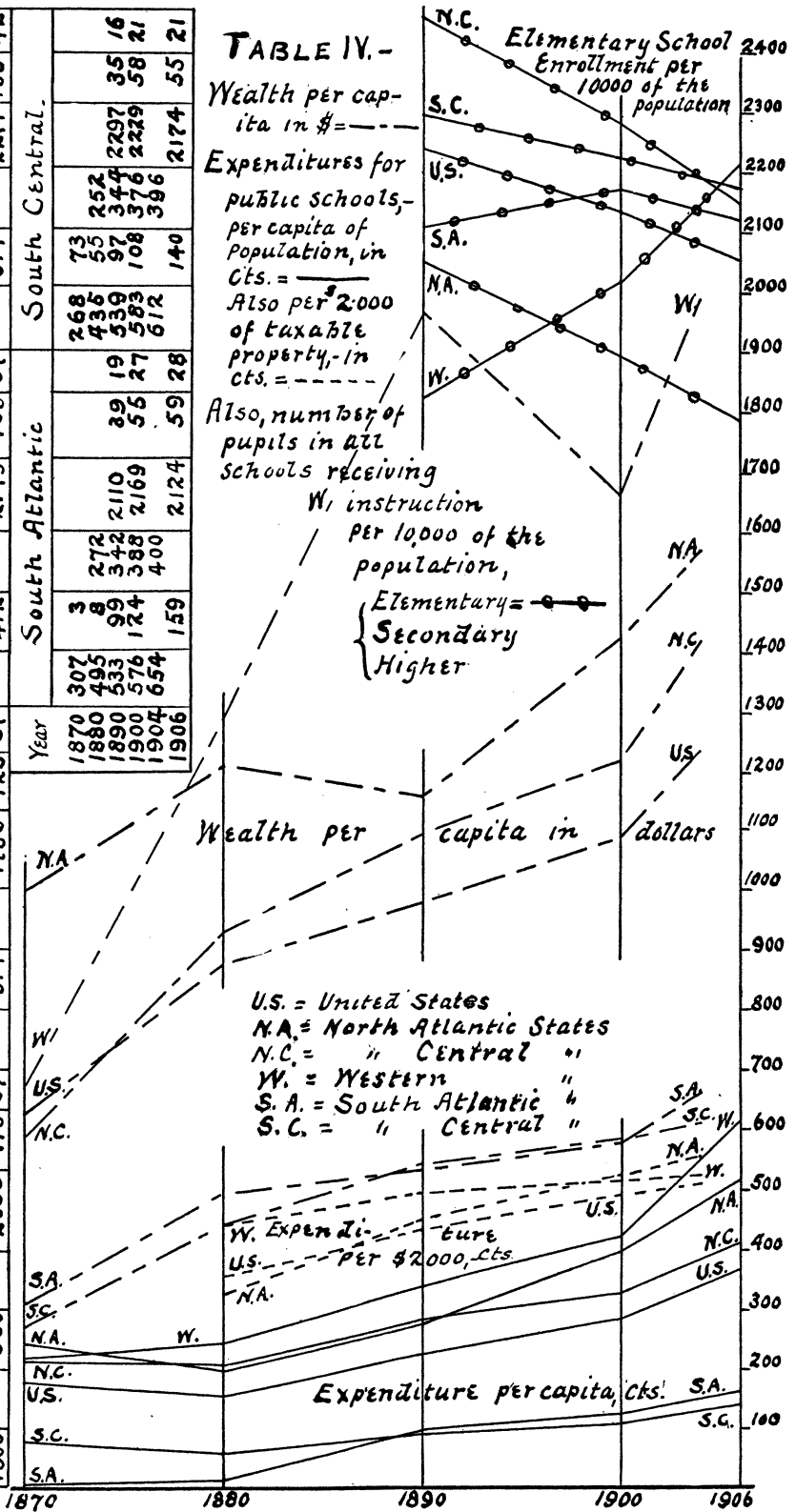
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**TABLE IV.-**  
Wealth per capita in \$=  
Expenditures for public schools, per capita of population, in Cts. =  
Also per \$2000 of taxable property, in cts. =

Also, number of pupils in all schools receiving W, instruction per 1000 of the population,  
Elementary =  
Secondary  
Higher





[illegible]

Indiana	Y. M. C. A., Columbus	1904	200	N	N	C	Y	Y	..	..	..	144	1294	..	..	..	34
	Y. M. C. A., Toledo	1906	20	18	N	..	..	Y	..	..	..	24	96	..	..	..	19
	Central Normal	1889	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Indiana Law School	1894	155	..	N	T	..	..	..	..	..	60	600	..	..	90	84
	Indianapolis College of Law	1899	140	..	N	Y	..	..	..	..	..	72	70	1050	Y	47	58
	Marion College of Law	1898	..	..	..	..	..	Y	..	..	..	..	..	..	..	..	..
	National Correspondence	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Tri-State	1900	80	..	N	..	..	..	..	..	..	80	660	..	..	..	..
	University of Indiana	1889	50	..	W	4	..	5	90	76	..	72	108	1296	40	85	155
	University of Notre Dame	1872	300	174	W	4	..	20	80	..	..	120	117	114	Y	37	168
Illinois	Valparaiso	1879	120	..	N	..	..	..	..	..	..	80	80	1824	Y	35	45
	Callaghan Correspondence (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	86	163
	Chicago Business College (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Chicago Business Law School (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Chicago Correspondence (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Chicago-Kent	1900	{ 240	..	..	Y	Comb.	..	..	..	..	80	108	1080	Y	{ 528	364
	Chicago Law School	1896	230	18	O	3	20	40	40	..	..	120	1200	Y	{ 181	107	244
	Gem City (a)	1897	..	..	..	..	..	..	..	..	..	..	..	..	..	139	124
	Illinois College of Law	1874	240	18	W	3	20	75	5	..	..	108	114	1368	Y	176	217
	Illinois Wesleyan	1874	185	18	W	3	5	90	5	72	80	76	108	1080	Y	25	23
Michigan	John Marshall	1898	230	18	W	Y	Comb.	..	..	..	..	120	120	1080	Y	72	61
	McKendrie (b)	..	..	..	..	..	..	..	..	80	78	..	..	..	Y	5	..
	Metropol. Business College (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	30	..
	Northern Illinois Normal (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Northwestern University	1859	380	18	W	4	..	100	72	72	76	108	1152	..	136	132	189
	University of Chicago	1902	465	21	W	Y	3	100	..	..	..	105	1260	..	..	211	230
	University Extension	..	{ 60	..	..	..	Corres.	..	..	..	..	144	..	..	..	160	265
	University of Illinois	1897	160	18	W	4	1	20	80	..	..	108	1620	..	..	92	142
	Detroit College of Law	1891	235	18	W	4	..	Y	..	..	74	108	..	..	..	158	180
	Sprague Correspondence	1890	..	18	W	Y	..	100	..	..	104	..	..	..	..	97	150
Missouri	University of Michigan	1859	{ 177	19	W	4	..	50	50	56	72	108	108	1530	Y	345	305
	..	..	232	..	..	..	..	..	..	..	..	..	..	..	..	670	838
	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	877	768
	Milwaukee Law School	1893	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Milwaukee University	1906	..	21	N	4	..	75	15	10	114	108	710	432	..	75	91
	University of Wisconsin	1868	150	..	W	..	50	25	25	..	108	684	..	..	..	16	..
	St. Paul College of Law	1900	190	..	W	Y	Comb.	1	99	39	76	74	108	1296	25	36	268
	Southern Minnesota (a)	..	..	..	..	..	..	..	..	..	..	108	1080	Y	..	232	184
	University of Minnesota	1888	190	18	W	4	1	5	10	85	..	108	108	1296	Y	315	528
	Drake University	1876	247	18	W	4	..	5	70	25	36	74	111	1591	Y	34	19
Iowa	University of Iowa	1868	170	..	W	4	C	..	..	..	76	80	72	108	86	258	197
	Benton (a)	1896	270	20	W	Y	L	..	..	..	..	..	..	1116	Y	214	130
	Kansas City	1895	235	..	W	4	..	..	..	..	..	..	..	..	..	150	166
	Metropolitan (a)	1901	90	..	W	..	..	90	10	..	105	105	630	..	..	121	196
	St. Louis	1867	300	18	W	4	..	67	33	48	64	64	108	1080	..	65	58
	Universal Correspondence (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	141	111
	University of Missouri	1872	30	18	W	4	..	60	40	42	52	114	114	1634	21	50	92
	University of North Dakota	1899	405	18	W	Y	C	..	..	..	72	72	1015	..	..	128	238
	University of South Dakota	1901	155	18	W	4	..	15	45	40	108	1484	..	..	Y	15	48
	Creighton	1904	175	18	W	4	..	1	99	..	111	1406	..	..	..	39	28
Nebraska	Omaha (a)	1897	145	..	W	4	Comb.	..	..	..	66	108	1656	..	..	99	161
	University of Nebraska	1891	..	..	O	4	5	75	20	..	108	828	..	..	..	8	8
	Bethany	1903	85	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	University of Kansas	1878	{ 120	..	..	4	..	75	25	..	64	72	108	1296	14	100	133
	Washburn	1903	155	18	..	4	Comb.	..	..	..	108	1296	..	..	..	39	44
Colorado	Colorado College (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Denver University	1892	310	18	W	4	1	30	69	..	64	108	1368	..	..	52	35
	University of Colorado	1892	136	18	W	4	C	Comb.	..	..	78	108	1620	..	..	19	47
	Y. M. C. A., Denver (a)	1907	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	University of Utah (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	University of Nevada (a)	1899	5	..	..	1	C	..	..	..	72	72	1404	..	..	44	57
	University of Washington	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Oregon Law School (a)	1906	115	..	Y	Y	..	95	60	..	60	108	403	Y	7	84	31
	Portland Law School	1884	220	..	..	..	..	..	..	..	72	72	1404	..	..	44	57
	University of Oregon	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
California	Williamette (a)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Hastings	1878	30	18	W	4	C	..	..	..	108	108	1080	..	..	138	163
	Stanford	1893	155	18	W	3	..	100	..	..	120	105	1435	..	..	171	209
	University of Cal., Dept. Jur. (a)	1897	175	18	W	4	..	..	..	..	108	108	1652	..	..	64	167
	University of South California	..	..	..	..	Y	C	..	..	..	..	..	..	..	..	..	..
	Y. M. C. A., San Francisco	1901	200	..	W	4	10	70	20	..	108	108	144	..	..	..	..
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(a) No report received. (b) Suspended.  
NOTE: The larger part of the foregoing table is compiled from answers sent to inquiries made, or from announcements sent in reply. The figures for past years are generally from Report of Commissioner of Education. The statement of attendance has been taken in many cases direct from announcements. These differ sometimes from those given in Report of Commissioner of Education. Occasional attendance in the last column is for 1907.  
Y—Yes; N—No; W—Written; O—Oral; C—Case; L—Lecture; T—Text Book. Numbers under High School, or College, indicate the number of years of such work required. Where the figures are in italics, the rule has been made but has not yet gone into effect.



TABLE VI—COURSE OF STUDY IN LEADING LAW SCHOOLS: NUMBER OF HOURS OF INSTRUCTION GIVEN IN THE PRINCIPAL SUBJECTS

[illegible]

NOTE: The foregoing does not purport to state all the instruction given, but only the time given to the leading subjects. It has been impossible to give with any degree of accuracy the time devoted to the various subjects, except in the schools named above and in some of these the announcements are indefinite, as e. g. University of California, (Hastings) says Agency, 2 hours, *portion* of year, etc. Where the number of weeks in the year, semester or term is not stated, I have counted 36 weeks for the year, 18 weeks for semester, 14 weeks for *fall* term, 12 weeks for *winter* term, and 10 for *spring*.

<sup>1</sup> Includes fixtures, easements, landlord and tenant; conveyancing not included

<sup>2</sup> Includes Administration of Estates.

<sup>3</sup> Practice Court Work not included. There is little uniformity in statements relating to Pleading, Practice, Procedure, Etc. Many of the schools that report comparatively little under these headings, nevertheless have extensive courses in practical work.

<sup>4</sup> For 1907-8, last announcement not received.

### <sup>5</sup> Extensive Practice Court Work

<sup>6</sup> Course extended to three years in 1909

<sup>a</sup> This table is compiled from the announcements for 1908-09 in most cases, but occasionally the latest announcement available was 1907-08. The institutions are grouped by divisions of the United States.

TABLE VII—CONDITIONS OF ADMISSION TO THE BAR, AT TIMES NAMED

Divisions and States	1881										1896-97										1907-08																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
	Years of Study			Credit for College Degree			Time in Office			Cr. for Law School			Diploma Admits			Years of Study			Credit for College Degree			Time in Office			Cr. for Law School			Diploma Admits			Years of Study			Credit for College Degree			Time in Office			Cr. for Law School																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
	Oral	Written	By Court	State Board	Law Subjects	Common Sch.	High School	Oral	Written	By Court	State Board	Law Subjects	Common Sch.	High School	Oral	Written	By Court	State Board	Law Subjects	Common Sch.	High School	Oral	Written	By Court	State Board	Law Subjects	Common Sch.	High School	Grammar	Eng. Comp.	Rhetoric	Eng. Lit.	Latin	Arithmetic	Algebra	Geometry, Plane	Geography	Phys. Geo.	Gen'l Hist.	Ancient Hist.	Medieval Hist.	Roman Hist.	English Hist.	U. S. Hist.	Civil Govt.	Polit. Econ.	Sociology	Physics, 1 yr.	Zoology	Botany	Physiology	Biology	Bookkeeping	Surveying																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																				
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